



**Pamat Enterprises Limited v Shahbal & 2 others (Environment and Land Case E091 of 2024) [2025] KEELC 6946 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 6946 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA  
ENVIRONMENT AND LAND CASE E091 OF 2024**

**YM ANGIMA, J  
OCTOBER 9, 2025**

**BETWEEN**

**PAMAT ENTERPRISES LIMITED ..... PLAINTIFF**

**AND**

**SULEIMAN SHAHBAL ..... 1<sup>ST</sup> DEFENDANT**

**HUSSEIN SHARRIF ALWY ..... 2<sup>ND</sup> DEFENDANT**

**HASSAN SHARRIF ALWY ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. By a notice of motion dated 29.04.2025 filed pursuant to Order 1 Rule 10, Order 40 Rules 1, 3, 4 and 7 of the Civil Procedure Rules, Order 45 Rules 1 and 2, Sections 1A, 1B, 3A and 34 (1) (2) and (3) of the *Civil Procedure Act*, Sections 3,13 (2) and (7), 18 and 19 of the Environment and *Land Act*, Articles 10, 40, 47, 50 and 159 of *the Constitution* and all other enabling provisions of law, the interested party sought the following orders;
  - a. Spent
  - b. That the Interested Party herein, Hassan Sharrif Alwy, be joined in this suit as the 3<sup>rd</sup> Defendant in this suit and be granted leave to file and serve pleadings and documents.
  - c. Spent
  - d. Spent
  - e. That the temporary injunctive and other orders issued by the ruling dated and delivered on March 27, 2025 in this matter and all consequential orders and directions emanating therefrom in favor of the Plaintiff be reviewed, set aside and or varied, discharged and replaced with orders dismissing the Plaintiff's application dated October 9, 2024 with costs.



- f. That a temporary order of injunction be issued restraining the Plaintiff, its agents, representatives, employees, servants and or any other party claiming under and through it from evicting, interfering with, disturbing and or in any other manner whatsoever infringing the Interested Party's peaceful and quiet possession, use and or control of ALL THAT piece and or parcel of land known as sub division Number 1623 Section I, Mainland North as delineated on Survey Plan Number 86421 (hereinafter referred to as "the suit property") pending the hearing and determination of this suit.
- g. That the costs of this application be provided for.
2. The application was based upon the grounds set out on the face of the motion and the contents of the supporting affidavit sworn by Hassan Sharrif Alwy on even date. The interested party pleaded that he was the true owner of the suit property and in actual possession thereof and that the plaintiff had misled the court into believing otherwise. He pleaded that the plaintiff was thus guilty of the non-disclosure of material facts. The interested party also accused the plaintiff of having attempted to evict his workers from the suit property on the basis of the interim injunction he obtained on 27.03.2025.
  3. When the application came up for directions on 29.05.2025 the interested party was granted leave to join the suit as a 3<sup>rd</sup> defendant since the plaintiff had no objection to the prayer for joinder. The parties were therefore directed to file submissions on the rest of the prayers in the motion.
  4. The record shows that the plaintiff did not file any response to the application despite being accorded an opportunity to do so. The plaintiff did not also file any submissions even though the interested party's submissions were filed on or about 26.06.2025.
  5. The court has considered the material and submissions on record. The plaintiff has not denied that it made attempts to evict the interested party's employees or servants from the suit property without an eviction order in its favour. That is an indication that the plaintiff was trying to make use of the interim injunction for ulterior and unintended purposes. Such conduct must be disapproved by the court by depriving the plaintiff of the equitable order of injunction.
  6. The court is thus inclined to set aside or discharge the interim injunction made on 27.03.2025. However, the court is unable to determine at the interim stage, and without the benefit of a full hearing, who is the legitimate owner of the suit property or who has a genuine title. The plaintiff cannot be faulted at this stage for claiming ownership of the suit property on the basis of the documents in its possession. The court is also unable to determine at the interlocutory stage who is in possession of the suit property hence the issue ought to be left to the trial court. As a result, the court is not inclined to grant the injunction sought against the plaintiff on the basis of the inconclusive evidence on record.
  7. Since the interested party has already been joined as a 3<sup>rd</sup> defendant to the suit the court shall grant him a limited time within which to file and serve his defence and counter-claim, if any. The plaintiff shall be granted leave to respond to the 3<sup>rd</sup> defendant's pleadings in the usual manner before the suit can be set down from pre-trial directions.
  8. The upshot of the foregoing is that the interested party's application dated 29.04.2025 shall succeed only in part. Consequently, the court makes the following orders for disposal thereof;
    - a. The interim injunction granted on 27.03.2025 is hereby set aside together with all consequential orders.
    - b. The 3<sup>rd</sup> defendant shall file and serve his statement of defence and counter-claim, if any, within 14 days from the date hereof.



- c. The plaintiff file and serve a reply to defence and defence to counter-claim, if applicable, within 14 days upon service of the 3<sup>rd</sup> defendant's pleadings
- d. Costs of the application shall be in the cause
- e. The suit shall be mentioned on 26.11.2025 for pre-trial directions.

Orders accordingly.

**RULING DATED AND SIGNED AT MOMBASA AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS ON THIS 9<sup>TH</sup> DAY OF OCTOBER 2025.**

.....

**Y. M. ANGIMA**

**JUDGE**

In the presence

Court assistant Gillian

Mr. Esilaba for the plaintiff

Mr. Lenjo for Mr. Onyango for 1<sup>st</sup> and 2<sup>nd</sup> defendants

Mr. Lenjo for interested party

