



**Shah & another v Murithi t/a Squad Three Services & 2 others;  
Ndaba & another (Interested Parties) (Environment and Land Case  
E258 of 2025) [2025] KEELC 7184 (KLR) (23 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 7184 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE E258 OF 2025  
CA OCHIENG, J  
OCTOBER 23, 2025**

**BETWEEN**

**NITINCHANDRA MEGHJI NAYA SHAH ..... 1<sup>ST</sup> PLAINTIFF**

**LILA CHIMANLAL MEGHJI SHAH (SUING AS THE LEGAL  
REPRESENTATIVE AND EXECUTRIX OF THE ESTATE OF CHIMANLAL  
MEGHJI NAYA SHAH ) ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**ERICK MUTUMA MURITHI T/A SQUAD THREE SERVICES 1<sup>ST</sup> DEFENDANT**

**AMBROSE GATHINGI MACHARIA T/A SQUAD THREE  
SERVICES ..... 2<sup>ND</sup> DEFENDANT**

**JOHN MWOHA KINUTHIA T/A SQUAD THREE SERVICES 3<sup>RD</sup> DEFENDANT**

**AND**

**ESTATE OF SIMON NJENGA NDABA ..... INTERESTED PARTY**

**CHIEF LAND REGISTRAR ..... INTERESTED PARTY**

**RULING**

1. What is before the Court for determination is the Plaintiffs' Notice of Motion application dated the 26<sup>th</sup> May 2025, where they seek the following Orders:
  - a. Spent.
  - b. Spent.
  - c. Spent.



- d. Spent.
  - e. That pending the hearing and determination of suit, this Honourable Court issues an Order for temporary injunction restraining the Defendants, its directors, agents, employees, servants, clients or whomsoever be restrained from trespassing, interfering, dealing, developing, wasting and or, damaging or dealing in any manner whatsoever with Land Reference Number 209/178/20.
  - f. That pending the hearing and determination of this suit, this Honourable court be pleased to issue an order of inhibition inhibiting any dealings with Land Reference Number 209/178/20 either by way of transfer, sale, lease, charge or otherwise.
  - g. That pending the hearing and determination of this suit, this Honourable Court issues an Order to the Defendants to immediately disclose to the Plaintiff the identity of the individuals or entity under whose authority their security employees entered and remain on Land Reference Number 209/178/20.
  - h. That this Honourable Court be pleased to issue any other order or relief it may deem appropriate, just or equitable.
  - i. That the Defendants bear the costs of this Application.
2. The application is premised on grounds on its face and on the 1<sup>st</sup> Plaintiff's supporting affidavit. He avers that he is the registered proprietor of Land Reference Number 209/178/20 pursuant to Grant No. I.R 89013 registered as No. I.R 89013/1, hereinafter referred to as the suit land, as a tenant in common together with the estate of the 2<sup>nd</sup> Plaintiff and the 1<sup>st</sup> Interested Party. Further, that the property was purchased in 1946 by two brothers Padamshi Naya Shah and Meghji Naya Shah, by way of an Indenture (Assignment) dated 24<sup>th</sup> December 1946. The said Meghji Naya Shah and Padamshi Naya Shah were registered as Tenants in Common, each holding one-half undivided share over the property for the residue of 74 years from 1<sup>st</sup> April 1973.
  3. He provides an outline of how the suit land passed from the original owners. He traced one-half share of Padamshi Naya Shah, to Nirmala Girish Dodhia who sold and transferred her one-half share of the property to the 1<sup>st</sup> Interested Party pursuant to an Indenture of Conveyance dated the 31<sup>st</sup> December 2001.
  4. He explains that the share held by Meghji Naya Shah was upon his death in 1965 vested in his wife Viraben Meghji Naya Shah and upon her demise in 1985, a Grant of Probate was issued to him and his late brother on 25<sup>th</sup> June 1985 as executors and beneficiaries. Subsequently, through a Vesting Assent made on 10<sup>th</sup> November 1985 and registered in Volume N. 54 folio 396/17 file 9975, the shares were vested in him and his brother, the 2<sup>nd</sup> Plaintiff.
  5. He claims that the registered proprietors in common applied for extension of the Lease over the suit land vide a Letter dated 10<sup>th</sup> February 1998, which was approved by a Letter dated 11<sup>th</sup> March 1999, for a total unexpired term of fifty (50) years from 1<sup>st</sup> September 1998, on the condition that the then existing title would be surrendered in exchange of a new one to reflect the new term and rent. Further, that after making requisite payments and pursuant to a surrender of title, which was registered in the Government Land Registry in Volume N54 Folio 396/22, the registered proprietors in common were granted a fifty (50) years Leasehold interest over the property as Tenants in Common, commencing from 1<sup>st</sup> September 1998 and were issued with Grant No. 89013 registered as No. I.R 89013/1. He



reiterates that they have been in quiet possession of the suit land and have to date paid up the land rent and rates as assessed.

6. He contends that the Defendants are purporting to provide private security services, but they are neither a registered company nor licensed by the Private Security Regulatory Authority to provide private security services as mandated under Section 6, 9 (c), 28, 30 (1), and 34 of the Private Security Regulations Act No. 13 of 2016.
7. It is his case that on 8<sup>th</sup> May 2025, the 1<sup>st</sup> to 3<sup>rd</sup> Defendants together with unidentified individuals, broke the padlock at the gate of the suit land, unlawfully and forcefully entered thereon and demolished the building including vegetation within the property, without the authority or consent of the Plaintiffs' or the 1<sup>st</sup> Interested Party.
8. He states that he sought assistance from Parklands Police Station, but no meaningful action has been taken. Further, that the Defendants and their Security Personnel, continue to willfully trespass on the suit land by placing guards at the gate, and refusing them to access their property and despite writing to them to inquire on who instructed them to trespass thereon, they have refused as well as declined to divulge the identity of their principal, thus they are vicariously liable for unlawful entry as well as trespass by their security personnel.
9. He reaffirms that the suit land is at the risk of being disposed of, to their detriment unless preservative orders of inhibition are issued. Further, that the Defendants connected electricity to the suit land on the weekend of 18<sup>th</sup> May 2025 and due to their actions, the Plaintiffs and the 1<sup>st</sup> Interested Party continue to suffer financial losses including emotional distress and stand to suffer irreparable harm that cannot be adequately compensated by monetary damages.
10. The application is opposed by the Defendants vide the 1<sup>st</sup> Defendant's replying affidavit. He avers that the Defendants are licensed by Private Security Regulatory Authority and are in possession of a Statutory License and that their business is provision of security. He confirms that they are not interested with the suit land and have long instructed their guards to vacate it, since it is causing disdain to their reputation.
11. He denies making electrical connections including installing iron sheets on the gate to the suit land. He insists that they are not responsible for any occurrence, loss or damage on the suit land. He contends that their entry was authorized and lawful since it was permitted by a person who appeared to them and informed them that they are entitled to the said suit land. Further, that the said person's information is protected under Data Privacy Laws and unless a Court order is issued, they cannot disclose the principal who instructed them.
12. The application was canvassed by way of written submissions, which was only filed by the Plaintiffs.

### **Submissions**

13. The Plaintiffs submit that they have met the threshold for grant of injunctions sought. They point out that they have demonstrated a prima facie case as they have asserted their proprietary rights over the suit land, while the Defendants have not shown any superior or competing proprietary rights. They further submit that they stand to suffer irreparable harm that cannot be adequately compensated by monetary damages if the orders sought are not granted. Further, that the Defendants do not have the financial capacity to compensate the damages and loss they stand to suffer.
14. It is their submission that the identity of the unnamed party on whose instructions the Defendants' claim to be acting is material to the just and fair resolution of the dispute, thus the suit calls for invocation of this Court's inherent powers under Section 3A of the [Civil Procedure Act](#). Further, that



Order 11 Rule (3) (1) of the Civil Procedure Rules confers on the Court broader powers to issue directions that facilitate disclosure, inspection and production of any document or fact necessary for a fair resolution of the dispute as deliberate refusal to disclose a party constitutes a calculated evasion of judicial scrutiny, which obstructs the fair and transparent adjudication of the matter. They reiterate that they have established grounds to warrant grant of inhibition orders pursuant to section 68 (1) of the [Land Registration Act](#).

15. To buttress their averments, they relied on the following decisions: *Neena Prior v Consolidated Water Limited* [2024] eKLR; *Mwake v Gatundu* [Environment and Land Case 9 of 2017 [2025] KEELC 5999 (KLR)]; *Paul Gitonga Wanjau v Gathuthi Tea Factory Company Ltd & 2 Others* [2016] eKLR and *M'murithi & Another v Kigia* (Environment and Land case E014 OF 2022) [2023] KEELC 17760 (KLR).

### **Analysis and Determination**

16. Upon consideration of the instant Notice of Motion application including the respective affidavits, annexures and Plaintiffs' submissions, at this juncture the only issue for determination is whether an interlocutory injunction should issue restraining the Defendants from interfering with the suit land and if an inhibition Order should be registered to inhibit any dealings with the said suit land pending the outcome of this suit.
17. In line with the principle established in the case of *Giella v Cassman Brown & Co Ltd* (1973) E A 358, I will proceed to decipher whether the Plaintiffs' have established a prima facie case to warrant the orders of interlocutory injunction as sought. I will further rely on the definition of a prima facie case as articulated in the case of *Mrao Ltd v First American Bank Limited* (2003) KLR 125 where the Court described it as follows:

“..... is a case which, on the material presented to the Court, a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter”.
18. The Plaintiffs and the 1<sup>st</sup> Interested Party claim to be registered owners of the suit land as tenants in common. They claim that the Defendants have trespassed thereon and caused wanton destruction of the property. They also contend that they are apprehensive that the Defendants intend to alienate the suit land. Further, that the Defendants have declined to divulge the identity of their principal and they seek an order of the Court for the Defendants' to disclose his name. On their part, the Defendants contend that they are a security firm that was hired to provide security services on the suit land by a person claiming ownership and whose identity they have refused to disclose citing data privacy laws.
19. From the averments by the Plaintiffs' on ownership of the suit land, I note they have demonstrated that they indeed have proprietary interest over it. Further, the Defendants insist they have no interest on the suit land and were just instructed to guard it. I opine that the Defendants are not acting in good faith nor being candid, for failure to divulge the name of their principal insisting they do not want to breach Data Privacy Laws. Further, looking at the annexures to the supporting affidavit in the instant application, which include the Certificate of Title, Deed Plan, Assent, Deed of Gift, Indenture of Conveyance, Grant of Probate and various correspondence, I find that the Plaintiffs' have indeed established a prima facie case to warrant the Orders of interlocutory injunction as sought. I further find that as registered proprietors of the suit land, which has been invaded by the Defendants, they stand to further irreparable harm which cannot be compensated by way of damages and the balance of convenience is in favour of granting an interlocutory injunction.



20. The Plaintiffs have also sought for an inhibition order to be registered on the suit land, pending outcome of the suit. On the issue of registering an inhibition against the suit land, Section 68 (1) of the [Land Registration Act](#) provides inter alia:

“The court may make an order (hereinafter referred to as an inhibition) inhibiting for a particular time, or until the occurrence of a particular event, or generally until a further order, the registration of any dealing with any land, lease or charge.”

21. In the case of *Japheth Kaimenyi M’ndatho v M’ndatho M’mbwiria* [2012] eKLR, the Court outlined conditions to be satisfied for grant of an inhibition order and stated as follows:

“In an application for orders of inhibition, in my understanding, the applicant has to satisfy the following conditions;

- a) That the suit property is at the risk of being disposed of or alienated or transferred to the detriment of the applicant unless preservative orders of inhibition are issued.
- b) That the refusal to grant orders of inhibition would render the applicant’s suit nugatory.
- c) That the applicant has arguable case.”

22. Since the Plaintiffs have established a prima facie case noting that the Defendants have interfered with their possession of the suit land, yet they hold documents of title to it, with the Defendants’ having declined to divulge the identity of their principal, I opine that the entry of inhibition to restrict any dealings on the suit land would suffice.

23. In the foregoing, I find the instant Notice of Motion application merited and will allow it in the following terms: That pending the hearing and determination of suit, an Order of temporary injunction be and is hereby issued restraining the Defendants, its directors, agents, employees, servants, clients or whomsoever be restrained from trespassing, interfering, dealing, developing, wasting and or, damaging or dealing in any manner whatsoever with Land Reference Number 209/178/20. That pending the hearing and determination of this suit, an order of inhibition be and is hereby issued inhibiting any dealings with Land Reference Number 209/178/20 either by way of transfer, sale, lease, charge or otherwise. Costs to abide outcome of suit.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 23<sup>RD</sup> DAY OF OCTOBER, 2025

CHRISTINE OCHIENG

JUDGE

In the presence of:

Ms Dave for Plaintiffs Applicant

Kamau for Defendants

Court Assistant: Joan

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