



Ramadhani & another (Suing as Administrators of the Estate of Mariam Ali Chepkoech) v Abud & 6 others (Environment and Land Case E447 of 2024) [2025] KEELC 7754 (KLR) (12 November 2025) (Ruling)

Neutral citation: [2025] KEELC 7754 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E447 OF 2024
CA OCHIENG, J
NOVEMBER 12, 2025**

BETWEEN

**MAIMUNA JUMA RAMADHANI 1ST PLAINTIFF
RAMADHANI JUMA RAMADHANI 2ND PLAINTIFF
SUING AS ADMINISTRATORS OF THE ESTATE OF MARIAM ALI
CHEPKOECH**

AND

**HAJI ABUD 1ST DEFENDANT
ABUD JUMA WAZIRI 2ND DEFENDANT
FATIHIYA JUMA ABDALLA 3RD DEFENDANT
ADAN SHEIKH ABUBAKAR 4TH DEFENDANT
ABDIRAHMAN ABDUKAR 5TH DEFENDANT
THE LAND REGISTRAR –NAIROBI 6TH DEFENDANT
THE ATTORNEY GENERAL 7TH DEFENDANT**

RULING

1. What is before Court for determination is the Plaintiffs’ Notice of Motion application dated the 29th October 2024, where they seek the following Orders:
 - a. Spent.
 - b. Spent.



- c. That pending the hearing and determination of this suit, the Honourable court be pleased to issue a temporary injunction restraining the Defendants herein whether by themselves, their agents and /or servants from trespassing into, transferring or in any way dealing with land parcel REF No. 209/2111 (IR. 228456) now Nairobi Block 40/399.
 - d. That the costs of this application be in the cause.
2. The application is premised on grounds on its face and on the supporting affidavit of Maimuna Juma Ramadhani. She deposes that the Plaintiffs are the beneficial owners of the land parcel REF No.209/2111 (IR. 228456) now Nairobi Block 40/399 hereinafter referred to as the ‘suit property’, by virtue of being the daughters of Mariam Ali Chepkoech, beneficiary to the estate of Fatima Ali Salimi, who after her death, the property was vide Nairobi HCSUCC 420 OF 2011 registered to her children: Said Abud Maalim, Halima Abud Maalim, Haji Abud and Mariam Ali Chepkoech as tenants in common. Further, that the three of the said Fatima Ali Salimi’s children are now deceased.
 3. She avers that sometime in 2022, the 1st to 3rd Defendants fraudulently caused rectification of grant in Nairobi HSUCC No. 420 OF 2011, listing themselves as administrators without the consent of the Plaintiffs’ as well as beneficiaries of the estate of Said Abud Maalim and managed to cause the sale including transfer of the suit property to the 4th and 5th Defendants, despite the Plaintiffs’ being in possession of the original title. Further, that as a result of the 1st to 3rd Defendants actions, the Plaintiffs’ quiet and peaceful possession of the suit property has been interfered with. She reiterates that the 1st to 3rd Defendants have started evicting tenants from the suit property, therefore the Plaintiffs are apprehensive that they might be evicted therefrom.
 4. The application is opposed by the 1st to 3rd Defendants vide the 2nd Defendant’s replying affidavit. He avers that the 1st Plaintiff fraudulently obtained Letters of Administration for the estate of Mariam Ali Chepkoech (deceased), who was not her biological mother as her birth certificate indicates that her mother’s name is Hadija Mohamed. Further, that other than the four (4) children of Fatima Ali Salimi (deceased), there are other beneficiaries of the said estate.
 5. He contends that the title to the suit property was registered vide a Lease document dated 8th November 2019, fraudulently affixing the photographs of Mariam Ali Chepkoech (deceased) who died on 14th July 2013 as per the Confirmation of Grant for the estate of Fatima Ali Salimi (deceased), who was the registered owner of LR No. 209/2011. Further, that Mariam Ali Chepkoech only appears as a beneficiary and not owner of the suit property.
 6. He admits that the suit property was sold by the administrators of the estate of Fatima Ali Salimi (deceased), who were acting in trust for all the beneficiaries of the estate and they were aware that it was being sold to be shared in accordance with Islamic law on distribution thus the plaintiffs will not suffer prejudice in any way.
 7. The Plaintiffs filed a further affidavit sworn by Maimuna Juma Ramadhan. She avers that her birth certificate, which she has held since 13th March 1976 indicates that her mother is Mariam Ali Chepkoech. She urges the Court to preserve the suit property following the counter allegations herein so that it can get to the root of the dispute.
 8. Parties did not file written submissions.

Analysis and Determination

9. Upon consideration of the instant Notice of Motion application including the respective affidavits, the sole issue for determination is whether the Plaintiffs have met the threshold for grant of a temporary



injunction restraining the Defendants from dealing with suit property REF No. 209/2111 (IR. 228456) now Nairobi Block 40/399, pending the outcome of this suit.

10. 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.
11. I wish to 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”.
12. The Plaintiffs claim they have an interest in the suit property through the estate of Mariam Ali Chepkoech (deceased), who inherited a share from the estate of Fatima Ali Salimi. They explain that the 1st to 3rd Defendants have sold the suit property to the 4th to 5th Defendants. Further, that the 1st to 3rd Defendants have commenced to evict tenants from the suit property to their detriment.
13. The 1st to 3rd Defendants claim that the 1st Plaintiff is not a child of Mariam Ali Chepkoech (deceased), which fact is refuted by the 1st Plaintiff. The 1st to 3rd Defendants however admit to have sold the suit property to the 4th and 5th Defendants and insist that the proceeds will be shared in accordance with Islamic law.
14. From the averments in the respective affidavits and looking at the documents presented including admission from the 1st to 3rd Defendants of having disposed of the suit property, I opine that it would be pertinent to preserve the substratum of the suit herein. Further, I note that the 1st to 3rd Defendants were only holding the suit property in trust for the beneficiaries of the estate of Fatima Ali Salimi and were not supposed to dispose of it, unless there is proof that all the said beneficiaries consented to the said disposal.
15. Based on the facts before me, I find that the Plaintiffs have indeed established a prima facie case to warrant the orders interlocutory injunction as sought. I further find that since both the Plaintiffs and 1st to 3rd Defendants are beneficiaries of the estate of Fatima Ali Salimi who owned the suit property, which has since been disposed to third parties, with the 1st to 3rd Defendants in the process of evicting the tenants from the said suit property, the Plaintiffs will suffer irreparable harm which cannot be compensated by way of damages. Further, that the balance of convenience tilts in favour of granting the injunction so as to protect the substratum of the suit.
16. In the foregoing, I find the Notice of Motion application dated 29th October 2024 merited and will allow it. Costs will be in the cause.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 12TH DAY OF NOVEMBER, 2025

CHRISTINE OCHIENG

JUDGE

In the presence of:

Otieno for Respondents

Olendi for Plaintiffs/Applicant

Court Assistant: Joan

