



**Lake Agro Limited v Brugees & another (Civil Case E548 of 2025)  
[2025] KEHC 17858 (KLR) (Commercial and Tax) (28 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17858 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
CIVIL CASE E548 OF 2025  
FG MUGAMBI, J  
NOVEMBER 28, 2025**

**BETWEEN**

**LAKE AGRO LIMITED ..... PLAINTIFF**

**AND**

**CALVIN BRUGEES ..... 1<sup>ST</sup> DEFENDANT**

**DOMINION FARMS LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. By a Notice of Motion dated 26<sup>th</sup> August 2025, the applicant sought injunctive relief against the respondents, pending the hearing and determination of the suit. Specifically, the applicant prays that the respondents be restrained from repudiating or recanting the terms of the Asset Purchase Agreement executed on 3<sup>rd</sup> December 2018 (the Agreement), concerning the sale of the property known as Usonga/Usonga/Block 1/4 by the 2<sup>nd</sup> respondent to the applicant (the suit property).
2. Further, the applicant seeks orders restraining the respondents from disowning or recanting the terms of the consent dated 30<sup>th</sup> April 2025, which was adopted as an arbitral award between the applicant and the 2<sup>nd</sup> respondent, and from interfering with the applicant's quiet possession and enjoyment of the suit property.
3. The application is supported by the affidavit of Jaswant Singh Rai sworn on 26<sup>th</sup> August 2025. Despite service of both the application and the hearing notice upon the respondents, no response has been filed. Proof of service is evidenced by the affidavits of service sworn on 21<sup>st</sup> October 2025 and 28<sup>th</sup> November 2025. The Court will, nonetheless, proceed to determine the application on its merits.



## **Analysis and Determination**

4. Order 40 Rule 1 of the Civil Procedure Rules sets out the circumstances under which a temporary injunction can be granted by the court. These have been well articulated in *Giella v Cassman Brown & Co Ltd*, (1973) EA 385, at page 360 where Spry, J laid out the principles as follows:
  - i. A party must show that they have a prima facie case with a probability of success;
  - ii. That they might otherwise suffer irreparable injury, which would not adequately be compensated by an award of damages if the order is not granted; and
  - iii. Thirdly, if the court is in doubt, it will decide an application on the balance of convenience.
5. To succeed, an applicant must satisfy each of these principles consecutively. On the first condition, this court must determine whether the applicants have established a prima facie case, as defined in *Mrao Ltd v First American Bank of Kenya Ltd & 2 Others*, [2003] KLR 125. In assessing whether a prima facie case has been demonstrated, I am mindful of the limitations on the scope of inquiry permitted at this stage, as articulated by the Court of Appeal in *Nguruman Ltd v Jan Bonde Nielsen & 2 Others*, [2014] eKLR and *Hosea Kiplagat & 6 Other v National Environment Management Authority & 2 Others*, (2015) eKLR. In both cases the Court warned against delving into the merits of a case at the interlocutory stage.
6. The Agreement between the applicant and the 2<sup>nd</sup> respondent has been duly placed before this Court. Recital B of the Agreement expressly confirms the sale of the 2<sup>nd</sup> respondent's business as a going concern. It further specifies that the transaction encompassed the land, plant, and machinery belonging to the 2<sup>nd</sup> respondent. The Agreement is executed by both parties and duly certified.
7. In addition, I have examined the Lease dated 12<sup>th</sup> July 2023, which confirms that the suit property is registered in the name of the applicant. The Consent Award of 30<sup>th</sup> April 2025, together with the RTGS receipts produced by the applicant, have also been presented to this Court. On their face, these documents establish that the applicant has discharged all obligations owed to the 2<sup>nd</sup> respondent. Moreover, the video recording and transcript tendered by the applicant justify its apprehension that, unless restrained, the respondents are likely to interfere with its possession and enjoyment of the suit property.
8. In the absence of any response from the respondents, the applicant's averments and supporting evidence remain uncontroverted. On the face of the record, it is evident to this Court that the applicant has established a prima facie case with a probability of success, and that unless injunctive relief is granted, they stand to suffer irreparable harm through disruption of their quiet possession and enjoyment of the suit property. The balance of convenience also tilts in favour of preserving the applicant's rights as demonstrated by the Agreement, the Consent Award, and the supporting documentation.

## **Disposition**

9. Accordingly, the application dated 26<sup>th</sup> August 2025 is merited and is hereby allowed.

**DATED, SIGNED AND DELIVERED AT NAIROBI**

**THIS 28<sup>TH</sup> DAY OF NOVEMBER 2025.**

**F. MUGAMBI**

**JUDGE.**

