



Ethics & Anti-Corruption Commission v Kimalat & 3 others (Environment and Land Case E058 of 2025) [2025] KEELC 18345 (KLR) (16 December 2025) (Ruling)

Neutral citation: [2025] KEELC 18345 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT AND LAND CASE E058 OF 2025
EM WASHE, J
DECEMBER 16, 2025**

BETWEEN

ETHICS & ANTI-CORRUPTION COMMISSION PLAINTIFF

AND

WILFRED KITUR KIPTUM KIMALAT 1ST DEFENDANT

NICHOLAS GITUHU KARIRA 2ND DEFENDANT

ENDO HOLDINGS LIMITED 3RD DEFENDANT

WILSON GACHANJA 4TH DEFENDANT

RULING

1. The Plaintiff (hereinafter referred to as “the Applicant”) did file a Notice of Motion Application dated 02.07.2025 (hereinafter referred to as “the present Application” against the 1st to 4th Defendants (hereinafter referred to as “the Respondents”) seeking the following Orders; -
 - a. That this Application be certified urgent and heard on a priority basis on the first instance.
 - b. That pending the hearing and determination of this Application inter-partes, a temporary injunction be issued restraining the Defendants/Respondents, their agents, servants, employees, associates, officers or any other person or entity acting in their name or instructions from selling, leasing, charging, further charging, transferring, sub-dividing, alienating, disposing of, wasting, developing, dissipating, evicting public servants on the suit premises or dealing with in any other manner whatsoever the parcels described as Eldoret Municipality Block 7/248 and Eldoret Municipality Block 7/210.
 - c. That pending the hearing and determination of this suit, a temporary injunction be issued restraining the Defendants/Respondents, their agents, servants, employees, associates, officers or any other person or entity acting in their name or instructions from selling, leasing, charging,



further charging, transferring, sub-dividing, alienating, disposing of, wasting, developing, dissipating, evicting public servants on the suit premises or dealing with in any other manner whatsoever the parcels described as Eldoret Municipality Block 7/248 and Eldoret Municipality Block 7/210.

- d. The Honourable Court be pleased to issue such further orders as it shall deem fit and just.
 - e. Costs of the application be provided for.
2. The facts in support of the prayers above are contained in the body of the present Application and the Supporting Affidavit thereof and are summarised as follows; -
- i. The Applicant is a public entity whose mandate amongst others is to investigate the illegal disposal of public property and recover the same for the benefit of the citizens of Kenya.
 - ii. The Applicant in undertaking its mandate believe that the property known as Eldoret Municipality Block 7/123 which has Government residential houses was fraudulently and illegally alienated to a private individual.
 - iii. Upon the fraudulent and illegal alienation of the property known as Eldoret Municipality Block 7/123 to a private individual, the same was sub-divided and two properties namely Eldoret Municipality Block 7/210 and Eldoret Municipality Block 7/248 (hereinafter referred to as “the suit properties”) were registered.
 - iv. Currently, there is a Government House recorded as ELD/HOU/MG/42 which was erected on the suit properties and is used to house senior public officers serving in Uasin Gishu County.
 - v. Consequently, the Applicant is of the view that unless the prayers sought in the present Application are granted, then there is a threat of the Defendants interfering with the use and occupation of the suit properties including further sub-division, disposing of or charging the same to a financial entity.
 - vi. The Applicant did plead that it has a prima facie case against the Respondents herein and therefore the balance of convenience tilts in their favour keeping in mind its mandate to safeguard public interest.
3. The present Application was duly served on the Respondents herein.
4. The 1st Respondent upon service of the present Application intimated to the Court that he did not wish to participate in the present Application.
5. The 2nd Respondent upon service of the present Application did file Grounds of Opposition dated 22.07.2025 but later intimated to the Court that he would also not wish to participate in the present Application.
6. The 3rd Respondent upon service of the present Application did oppose the present Application by filing a Replying Affidavit dated 10.09.2025.
7. The 4th Respondent upon service of the present Application did not enter appearance and/or attend Court at all.
8. In essence, it was only the 3rd Respondent who effectively opposed the present Application.
9. In the 3rd Respondents Replying Affidavit dated 10.09.2025, the following facts were pleaded in opposition of the present Application; -



- i. According to the 3rd Respondent, the property known as Eldoret Municipality Block 7/123 upon sub-division did produce three portions of land namely Eldoret Municipality Block 7/208, Eldoret Municipality Block 7/209 and Eldoret Municipality Block 7/210.
 - ii. The sub-division known as Eldoret Municipality Block 7/210 is what was subsequently renamed as Eldoret Municipality Block 7/248 herein.
 - iii. In essence, the 3rd Respondent did plead and aver that the two properties described as Eldoret Municipality Block 7/210 and Eldoret Municipality Block 7/248 refer to one and the same property.
 - iv. Be as it may, the 3rd Respondent did give a comprehensive manner in which the suit properties were alienated from public property to its name.
 - v. According to the 3rd Respondent, the process and manner in which the suit properties were alienated to its name was lawful and in accordance to the law.
 - vi. The 3rd Respondent did plead that unfortunately, the suit properties have been subject of interference by fraudsters who have been creating parallel ownership documents including the 1st and 2nd Respondents herein.
 - vii. Consequently, the 3rd Respondent did challenge the ownership of the 1st and 2nd Respondents over the suit properties herein.
 - viii. The 3rd Respondent was of the view that the Applicant's allegation that the suit properties were unlawfully and fraudulently acquired is therefore in bad faith and an effort to unlawfully dispossess it of its lawful acquired property.
 - ix. The 3rd Respondent did confirm that it has been paying all the required rates and rent to both the national government and the County Government which is proof of its recognition as the legitimate owner of the suit properties.
 - x. In essence therefore, the 3rd Respondent sought the present application to be dismissed with costs.
10. Upon service of the Replying Affidavit dated 10.09.2025, the Court did direct that the present Application would be heard by way of written submissions.
 11. The Application duly did file their submissions 16.09.2025 and the 3rd Respondent did file theirs on the 30.10.2025.
 12. The Court has indeed perused the present Application, the response by the 2nd and 3rd Respondents and the submissions thereof and identifies the following issues for determination.
 - Issue No.1- Whether the applicant is entitled to a prayer of injunction against the 1st to 4th respondents?
 - Issue No.2- Whether the present application is merited?
 - Issue No.3- Who bears the costs of the present application?
 13. The Court having identified the above-mentioned issues for determination, the same will be discussed as provided herein below.



Issue No.1- Whether the Applicant is entitled to a prayer of injunction against the 1st to 4th Respondents?

14. The first issue for determination is whether or not the Applicant is entitled to an Order of temporary injunction against the 1st to 4th Respondents herein.
15. According to the Prayer No. C in the present Application, the Applicant is seeking to preserve the suit properties by ensuring that they are not interfered with and/or alienated further by the 1st to 3rd Respondents herein.
16. Consequently, the Applicant sought for an injunction against any further sub-division, charging, transferring and/or selling of the suit properties by the 1st to the 3rd Respondents herein.
17. The Applicant did plead that the suit properties are public properties which it is trying to recover on behalf of the citizens of the Republic and therefore the balance of convenience tilts in its favour.
18. The 3rd Respondent in their Replying Affidavit dated 10.09.2025 did not object to the issuance of any injunctive Orders sought by the Applicant herein.
19. The 3rd Respondent elaborately in its Replying Affidavit did outline the manner in which it acquired the suit properties and did stress the legitimacy of its ownership documents against the 1st and 2nd Respondent's ownership over the same.
20. The Court on the 23.07.2025 did direct the County Land Registrar, Uasin Gishu to register an Inhibition of the White Card and/or Register of the suit properties herein pending the hearing and determination of the present application within 7 days from the date of the said Orders.
21. In doing so, the Court did eliminate the threat or possible change of ownership on the suit property which the Applicant is seeking to prohibit through an Order of injunction.
22. Similarly, the Applicant in the present Application sought for an Injunction prohibiting the possible eviction of the public servants who are in occupation of the Government Houses erected on the suit properties.
23. None of the 1st to 4th Respondent opposed the Applicant's prayer that the houses erected on the suit properties should continue being occupied by the public officers currently residing on the same.
24. According to the Applicant's own pleadings and submissions, it was confirmed that the houses on the suit properties are in occupation and use of various law enforcement officers serving in the County of Uasin Gishu.
25. Despite this status of the ground, the Applicant did not produce any documentary evidence that did demonstrate any threat from the 1st to 4th Respondents that could possibly result to the eviction of the public officers from the suit properties herein.
26. As such, the Court did not identify any tangible threat and/or acts by the 1st to 4th Respondents geared towards the interruption of the possession and/or occupation of the public officers in the suit property to warrant the issuance of an injunction.
27. However, for avoidance of doubt, the Court is of the considered view and finding that on possession and occupation of the houses within the suit properties, the status quo existing at the date of this Ruling should subsist pending the hearing and determination of the main suit.



Issue No.2- Whether the present application is merited?

28. On the second issue as to whether the present Application is merited or not, the Court is of the considered view and finding that based on the pleadings before it, the same has been overtaken by events based on the Order of Inhibition issued on the 23.07.2025 and the Order of Status Quo issued hereinabove.

Issue No.3- Who bears the costs of the present application?

29. On costs, the Court is of the view that each party should bear its own costs.

Conclusion

30. In conclusion therefore, the Court hereby makes the following Orders in determination of the present Application.

- a. The notice of motion dated 02.07.2025 is overtaken by events.
- b. The land registrar, uasin gishu be and is hereby directed and/or ordered to retain the inhibition issued on the 23.07.2025 on the white card and/or register of the properties known as LR.No.Eldoret Municipality Block 7/210 & Eldoret Municipality Block 7/248 pending the hearing and determination of the suit herein.
- c. An order of status quo existing on the ground as at 16.12.2025 which is the occupation of the government houses on the suit properties by the public servants be maintained pending the hearing and determination of the suit herein.
- d. On this application, each party will bear its own costs.

DATED, SIGNED & DELIVERED VIRTUALLY AT ELDORET ELC THIS 16TH DAY OF DECEMBER 2025.

EMMANUEL.M. WASHE

JUDGE

In the Presence of:

Court Assistant: Brian

Counsel for the Applicant: Ms. Baithalu

Counsel for the Respondent: Mr. Langat for 1st Respondent

Mr. Lubanga for 2nd Respondent

Mr. Odunga for 3rd Respondent

