



Osuku v Coastal Kenya Enterprises Limited (Environment and Land Miscellaneous Application E143 of 2023) [2025] KEELC 8559 (KLR) (9 December 2025) (Ruling)

Neutral citation: [2025] KEELC 8559 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E143 OF 2023
CA OCHIENG, J
DECEMBER 9, 2025**

BETWEEN

FAKE OSUKU APPLICANT

AND

COASTAL KENYA ENTERPRISES LIMITED RESPONDENT

RULING

1. What is before the Court for determination is the Applicant's Notice of Motion application dated 14th May 2025 where he seeks the following Orders:
 - a. Spent.
 - b. Spent.
 - c. Upon inter parties hearing, the inhibition order be confirmed while pending the hearing and determination of the suit.
 - d. That the Land Registrar Nairobi Land Registry be ordered to register an inhibition on Title Plot No. 12458/6, off Enterprise Road.
 - e. That the Honourable court do issue orders to the effect that the status quo prevailing as at the time of filing ELRC No. E70 OF 2024 be maintained by the parties on the ground and in relation to any transaction or actions in respect to the suit land until this matter is fully heard and determined.
 - f. That the costs of this application be provided for.
2. The application is premised on grounds on its face and on the Plaintiff's supporting affidavit. He avers that he worked as an accountant for the Respondent from 30th November 2009 to March 2022 when he resigned due to delay in payment of his salary. He explains that he thereafter filed a suit against the



Respondent in the Employment and Labour Relations Court, being ELRC No. E70 OF 2024 and in the course of hearing of the said suit, he learnt that the Respondent's official business premises on Plot No. 12458/6 is on sale. He is apprehensive that in case his claim in the Employment and Labour Relations Court is successful, it will be impossible to execute judgement. He claims that he is aware that the Respondent disposed of its machinery thus the suit property is its only asset, hence orders sought should be granted to prevent the Respondent from evading justice.

3. The application is not opposed.
4. The Applicant filed written submissions to canvass the instant application.

Submissions

5. The Applicant submits that he has met the threshold for grant of injunctions as set in the case of *Giella v Cassman Brown & Co. Ltd. (1973) E.A. 358*. He contends that he has a prima facie case since he has a pending claim against the Respondent seeking payment of salary arrears and terminal dues and the Respondent has neither denied owing him nor honored its acknowledgement of debt. Further, that he stands to suffer irreparable damage with no remedy of compensation since the Respondent is attempting to dispose of its business. He reiterates that the balance of convenience tilts heavily in his favour.
6. He also submits that that under Section 68 of the *Land Registration Act*, this Court is empowered to issue an inhibition order restraining any dealings with land to preserve the subject matter until the court determines the dispute. To this end, he relied on the decision of *Shivabhai Patel Vs Manibhai Patel (1959) EA 907* and *Dorcas Muthoni & 2 Others Vs Michael Ileri Ngari (2016) eKLR*.

Analysis and Determination

7. I have considered the instant Notice of Motion application including the supporting affidavit and submissions, the only issue for determination is whether the Court should issue an inhibition order restraining the Respondent from disposing off Plot No.12458/6 until his claim in ELRC No. E70 OF 2024 is heard and determined.
8. The legal provisions governing interlocutory injunctions is contained in Order 40 Rule 1 of the Civil Procedure Rules which provides that:

“Where in any suit it is proved by affidavit or otherwise—(a)that any property in dispute in a suit is in danger of being wasted, damaged, or alienated by any party to the suit, or wrongfully sold in execution of a decree; or(b)that the defendant threatens or intends to remove or dispose of his property in circumstances affording reasonable probability that the plaintiff will or may be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit, the court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal, or disposition of the property as the court thinks fit until the disposal of the suit or until further orders.”



9. In Steyn (Suing as the Legal Representative of Hermanus Phillipus Steyn) v Gnechi - Ruscone [2025] KEHC 15413 (KLR), the Court stated as follows in an application of similar nature:

“The Court must remain vigilant and proactive in ensuring that its judgments are not rendered hollow by strategic conduct aimed at evading enforcement. Equity demands no less, and the integrity of the judicial process depends on it..”

10. In this instance, the Applicant has sought for an inhibition order to be registered against the Plot No.12458/6 claiming that it is owned by the Respondent who was his employer. Further, that that the Respondent might dispose of the said plot yet there is a pending case being ELRC NO. E70 of 2024 where he has sued it for failure to pay his salary. He contends that he has established a prima facie case to warrant the orders as sought.

11. On perusal of the annexures in the supporting affidavit, I note there is no search or copy of a title to confirm that the Respondent indeed owns Plot No.12458/6. Insofar as this application is unopposed, I opine that it was incumbent upon the Applicant to demonstrate that the Respondent owned the aforementioned plot, which he has failed to do. Further, from a reading of Order 40 of the Civil Procedure Rules which is cited above, I opine that the Applicant has not proved that the Respondent threatens or intends to remove or dispose of its property to obstruct or delay in the execution of the Decree that may be passed against it in the aforementioned ELRC case.

12. In the circumstance, I find the instant Notice of Motion application premature and will proceed to strike it out.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 9TH DAY OF DECEMBER, 2025

CHRISTINE OCHIENG.

JUDGE

In the presence of:

Wairimu for Applicant

Court assistant: Vena

