



Pumwani Riyadhha Mosque Registered Trustees & another v Gikomba Business Limited (Formerly Mumbai Shopping Complex) & 5 others (Land Case E332 of 2025) [2025] KEELC 18494 (KLR) (19 December 2025) (Ruling)

Neutral citation: [2025] KEELC 18494 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
LAND CASE E332 OF 2025
CG MBOGO, J
DECEMBER 19, 2025**

BETWEEN

PUMWANI RIYADHA MOSQUE REGISTERED TRUSTEES PLAINTIFF

AND

GIKOMBA BUSINESS CENTRE LIMITED PLAINTIFF TO THE COUNTERCLAIM

AND

GIKOMBA BUSINESS CENTRE LIMITED (FORMERLY MUMBAI SHOPPING COMPLEX) 1ST DEFENDANT

THE CHIEF LAND REGISTRAR NAIROBI 2ND DEFENDANT

AND

ZAKARIA BILAL, SALIMI FAMAU, ALI MUHSIN & OMAR AHMED SHEIKH (SUED AS THE MEMBERS OF PUMWANI RIYADHA MOSQUE COMMITTEE) 1ST DEFENDANT TO THE COUNTERCLAIM

AHMED SHEIKH OMAR, HASSAN ATHMAN HASSAN, ATHMAN KAHELA MUPA & IBRAHIM SAMUEL NJUGUNA (SUED AS TRUSTEES OF PUMWANI RIYADH MOSQUES REGISTERED TRUSTEES) 2ND DEFENDANT TO THE COUNTERCLAIM

AFSOMA REALTORS AND INVESTMENT LIMITED 3RD DEFENDANT TO THE COUNTERCLAIM

TILEY COMMS LIMITED 4TH DEFENDANT TO THE COUNTERCLAIM



RULING

1. Before this court for determination are two notices of motion both dated 18th July, 2025 both filed by the plaintiff/applicant in the counterclaim. The 1st notice of motion dated 18th July, 2025 is expressed to be brought under Article 40 of *the Constitution*, Sections 1A, 1B, 3A and 63 of the *Civil Procedure Act* and Order 40 Rules 1, 2 and 4 of the Civil Procedure Rules seeking the following orders:-
 1. Spent.
 2. That this honourable court be pleased to issue an order of temporary injunction restraining the defendants/respondents in the counterclaim by themselves, their agents, employees, servants or anybody claiming through them from interfering with the plaintiff/applicant's business operations by collecting rent from the plaintiff/applicant's tenants occupying Gikomba Business Centre, the suit property situate on property L.R. No. 209/19680 pending the hearing and determination of the application inter-parte and any further orders of the court.
 3. That this honourable court be pleased to issue an order of temporary injunction restraining the defendants/respondents by themselves, their agents, employees, servants or anybody claiming through them from alienating, trespassing or in any other manner interfering with the plaintiff's leasehold over L.R. No. 209/19680 known as Gikomba Business Centre, the suit property, pending the hearing and determination of this application and the suit herein.
 4. That, this honourable court be pleased to issue an order of temporary injunction restraining the 3rd and 4th defendants/respondents by themselves, their agents, employees' servants or anybody claiming through them from collecting rent for the month of July, 2025 and the subsequent months and direct that the rent shall be collected by the plaintiff and/or their appointed agents pending the hearing and determination of the application and suit.
 5. That, this honourable court be pleased to issue a mandatory order of injunction directing and compelling the 4th defendant/respondent by themselves, their agents, employees, servants or anybody claiming through them to refund the rent collected from the plaintiff/applicant's tenants for the month of July 2025, through M-Pesa agent no. 21084 and remit the same to the plaintiff/ applicant and/ or their appointed agent pending the hearing and determination of the application and suit.
 6. That this honourable court be pleased to direct the 3rd defendant/respondent by themselves, their agents, employees, servants or anybody claiming through them to reconcile and account for the rent collected since October 2024 to June 2025 and file a report in court within seven (7) days pending the hearing and determination of the application and suit herein.
 7. That this honourable court be pleased to issue a mandatory order of injunction directing the 1st and 2nd defendants/respondents by themselves, their agents,



employees, servants or anybody claiming through them to hand over the suit property to the plaintiff/applicant forthwith under the supervision of the Officer Commanding Station Shauri Moyo Police Station pending the hearing and determination of the application and suit herein.

8. That costs of this application be provided for.
2. The application is premised on the grounds on its face. It is further supported by the affidavit of Bakai Maalim Kulmia, the director of the plaintiff/applicant sworn on even date. The plaintiff/applicant deposed that through a Memorandum of Understanding (MOU) dated 18th April, 2007 with the 1st defendant/ respondent, the two parties agreed to develop the suit property known as L.R. No. 209/19680 formerly known as Plot L.R. No. 209/2378 plot B Digo Road (hereinafter referred to as the suit property). In the said MOU, the two parties agreed to grant the plaintiff/applicant a lease of 22 years commencing 1st March, 2008. The plaintiff/applicant deposed that it sourced for funds and begun the said developments of constructing a mall, shops, offices and stores during the grace period which commenced on 18th September, 2006. Subsequently, and by a lease dated 4th February, 2009, the 1st defendant/respondent agreed to lease the suit property for a period of 22 years and 3 months commencing on 1st September, 2009.
3. The plaintiff/applicant deposed that after signing the lease, it encountered challenges in seeking the necessary approvals and permission for construction, and that by consent the suit property was transferred to it to enable it secure funding. Further, and during the pendency of the lease, a dispute arose in respect of ownership of the suit property, and that with the help of the Muslim community and the National Land Commission in 2015, the plaintiff/applicant and the 2nd defendant/respondent entered into a Dispute Settlement Agreement dated 9th September, 2015 that protected the rights of both parties.
4. Following the Dispute Settlement Agreement, the plaintiff/applicant and the 2nd defendant/respondent entered into a fresh lease dated 9th September, 2015 wherein they agreed to lease the property for a term of 35 years with effect from 1st January, 2015 in consideration of a monthly rent of Kshs.350,000/-. The plaintiff/applicant's leasehold was then registered on 3rd September, 2022 against the title to the suit property.
5. The plaintiff/applicant further deposed that following the agreement and the two leases, it has developed the suit property at a cost of approximately Kshs.300,000,000/-, and it has continued to honour its obligations under the lease dated 9th September, 2015. Further, that a valuation report dated 28th January, 2025 indicated that the suit property is estimated at Kshs.815,500,000/-.
6. The plaintiff/applicant averred that the 1st and 2nd defendants/respondents through their agents, servants and representatives have trespassed on the suit property and interfered with its possession and management and illegally began collecting rent from October, 2024. Further, that when it went to effect service of the court orders, the agents of the said defendants/respondents physically assaulted its agents and one instance took place on 17th April, 2025. Further, it was deposed that the 1st and 2nd defendants/respondents have constantly issued notices to the tenants that they are the landlords, and thus entitled to collect rent creating an unconducive business environment.
7. It was further deposed that the High Court issued injunctive orders on 12th and 16th October, 2024 vide HCCOMM No. E610 of 2024 Gikomba Business Centre Limited v Pumwani Riyadha Mosque & Another. Further, that the 1st and 2nd defendants/respondents filed an application seeking to strike out the plaint dated 8th October, 2024, and in a ruling delivered on 5th December, 2024, the High



Court dismissed their application. Further, that in a ruling delivered by the Court of Appeal on 11th July, 2025, the plaint dated 8th October, 2024 was struck out which had the effect of discharging the High Court orders issued on 12th and 16th October, 2024. That to date, the lease registered in its favour continues to exist as well as the rights accruing therefrom.

8. The plaintiff/applicant deposed that the 1st and 2nd defendant/respondents illegally collected rent from October 2024 to June 2025 to the tune of Kshs.92,626,112.04/-. Further, that the 1st and 3rd defendants/respondents remitted Kshs.500,000/- and Kshs.4,100,000/- respectively leaving a balance of Kshs.87, 526,112.04/-. It was deposed that for the month of July, 2025, the 4th defendant/respondent has since been appointed to collect rent on behalf of the 1st and 2nd defendants/respondents in total violation of the lease. That unless the court grants the orders sought, it stands to suffer great loss and irreparable harm and injury resulting from the defendants/respondents' illegal actions.
9. With regard to the 2nd notice of motion dated 18th July, 2025 filed by the plaintiff/applicant in the counterclaim, the same is expressed to be brought under Order 2 Rule 15 (c) & (d) and Order 51 Rule 1 of the Civil Procedure Rules, Sections 1A, 1B and 3A of the Civil Procedure Act, and Sections 4 & 8 of the Limitation of Actions Act seeking the following orders:-
 1. That the plaint dated 11th July, 2025 be struck out and/or dismissed.
 2. That costs of this application be provided for.
10. The application is premised on the grounds inter alia that the 2nd defendant/respondents claim for alleged outstanding rent of KShs.94,248,000/- from July 2009 to July 2024 is statute barred under the provisions of Sections 4 (1)(a) and 8 of the Limitations of Actions Act.
11. The application was supported by the affidavit of Bakai Maalim Kulmia, the director of the plaintiff/applicant which was sworn on even date. The plaintiff/applicant deposed that vide the MOU dated 18th April, 2007 between itself and the 2nd defendant/respondent, the claim for alleged default in rent payment from 2009 being sixteen years prior to the filing of this suit is barred under the provisions of Section 4(2) of the Limitation of Actions Act.
12. The plaintiff/applicant further deposed that the claim for undue coercion or duress as pleaded in paragraph 10 of the plaint is equally statute barred as the same ought to have been instituted before the year 2018. It was further deposed that the suit is an abuse of the court process for failure to disclose the cases before the Business Premises Rent Tribunal Case No. 922 of 2024, Nairobi CMELC No. E369 of 2024, HCCOM No. E610 of 2024, Civil Appeal No. E965 of 2024 and the pending appeal filed being Civil Appeal No. 276 of 2025.
13. The 2nd defendant/respondent in the counterclaim filed its replying affidavit in opposition to both applications. The same is was by Ahmed Sheikh Omar on 5th August, 2025. The 2nd defendant/respondent deposed that it is the registered owner of the suit property pursuant to the registration effected on 31st May, 2021 and its interest preceded its registration, the same having been allotted to Pumwani Riyadhha Mosque through a lease for a term of 99 years with effect from 1st July, 1997. Further, that the plaintiff/applicant unlawfully and fraudulently processed the allotment to defeat its interest in the main suit and have the certificate of title issued on 11th December, 2013 in the names of Mohamud Mohamed Ali, Mohamed Nasir Abdi and Abdi Mohamed Hassan.
14. The 2nd defendant/respondent further deposed that the suit property was later transferred to the 1st plaintiff/applicant on 22nd January, 2015. Further, that its registration was secured vide the dispute



- settlement agreement dated 9th September, 2015 wherein it agreed to lease the suit property to the plaintiff/applicant for a term of 35 years at a monthly rent of Kshs.50,000/- payable quarterly.
15. With regard to the application seeking to strike out the plaint dated 11th July, 2025, the 2nd defendant/respondent deposed that the totality of its claim under the suit is for the recovery of the property both the title and possession as well as damages on account of unpaid rent subsequent to exercising its right of re-entry and termination of the tenancy relationship over the property in October, 2024.
 16. The 2nd defendant/respondent deposed that the period for recovery of land is 12 years, and while it has sought recovery, the same is not barred by limitation. Further, that enforcement of a claim in damages under a contract is six years from the date of its termination, and in this case, since termination occurred in October 2024, the same is not barred by limitation of time. It was further deposed that in paragraph 7 of its statement of defence and counterclaim dated 18th July, 2025, the plaintiff/applicant admits the MOU dated 18th April, 2017 and the outstanding liability for rent thereunder which in itself is limitation.
 17. It was further deposed that the defence pleaded by the plaintiff/ applicant that it is not privy to the rent under the lease agreement dated 4th February, 2009 and 9th September, 2015 is unsustainable. That as the registered owner of the property, it is entitled to all rights in respect thereof, including the retrospective rights to the rent accrued for the period of the tenancy agreement between the plaintiff/ applicant and the 1st defendant/respondent. Further, that nowhere in the statement of defence and counterclaim has the plaintiff/applicant particularized the payment of rent under the MOU dated 18th April, 2007 and the lease agreement dated 4th February, 2009, and 9th September, 2015. That instead, the plaintiff/applicant has sought specific performance of the lease agreement dated 9th September, 2015.
 18. The 2nd defendant/respondent further deposed that the plaintiff/applicant has tried to make the counterclaim appear different from the suit that was struck out being HCCCOMM no. E610 of 2024 by including its committee members and trustees, and it is doubtful whether a counterclaim which seeks to relitigate a struck-out claim can support an application for injunction following the judgment delivered on 11th July, 2025 in Civil Appeal No. E965 of 2024 over the same matter. Further, it was deposed that nowhere in the witness statement of Abdiwali Mohamed Abdi dated 18th July, 2025 and the list of documents of even date has the plaintiff/applicant given evidence of payment of rent under the MOU and the lease agreements dated 4th February, 2009 and 9th September, 2015.
 19. It was deposed that the plaintiff/applicant had until October, 2024 not paid the rent in the manner agreed. That as such, it was entitled to treat the default in rent payment as a breach of the fundamental terms and conditions of the tenancy entitling it to terminate the tenancy relationship, to re-enter the suit property and take possession as it did in October, 2024. Further, that this act was preceded with the issuance of demand and notice upon the plaintiff/applicant on 21st August, 2024. That upon taking possession in October, 2024 it leased the property to tenants from whom it has been collecting rent to date. Further, that the claim, if any, lies in damages which the plaintiff/applicant has quantified at KShs.300,000,000/- being the costs of development of the property.
 20. The 2nd defendant/respondent further deposed that it is not impecunious, and that it can pay any award of damages in the event the plaintiff/applicant's claim succeeds. The 2nd defendant/respondent deposed that the plaintiff/applicant cannot seek the striking out of its claim which seeks rescission of the lease agreement dated 9th September, 2015 and which lease is sought to be enforced through the counterclaim. Further, that it has not established a case to warrant the grant of an injunction coupled with the fact that the relationship between them has irretrievably broken and that it will be injurious



to both parties to compel them to be bound by the lease agreement dated 9th September, 2015. Further, that the events surrounding the filing of HCCCOMM No. E610 of 2024, and the striking out of the plaint in Civil Appeal No. E965 of 2024 disentitles the plaintiff/applicant to the exercise of this court's discretion through an injunction.

21. The plaintiff/applicant filed a further affidavit in response thereto. The same is sworn on 23rd September, 2025. The plaintiff/applicant reiterated the contents of its supporting affidavit contained in both applications, and further deposed that the 2nd defendant/respondent's interest can only be traced back to 9th September, 2015 when the dispute settlement agreement was signed. Further, that its interest in the suit property was restricted to a leasehold, and it was never involved in any scheme to dispossess the 1st and 2nd defendants/respondents of the suit property. Further, it was deposed that the 2nd defendant/respondent has sought for the revocation of the lease, and that it cannot be allowed to amend its claim to that of recovery of land by way of a replying affidavit.
22. In further response, the plaintiff/applicant deposed that the suit in HCCCOMM No. E610 of 2024 was never heard and determined on merit, and that as a society, the 1st defendant/respondent can only be sued through its officials, and the members of the committee who have been joined as parties to the counterclaim. Further, that there is no factual or legal basis for the 2nd defendant/respondent to refuse to honour the terms of the lease, and the same is made in bad faith and calculated to interfere with its possession and prevent re-entry into the suit property.
23. Both applications were canvassed through written submissions. With regard to the application for injunction, the plaintiff/applicant filed its written submissions dated 30th September, 2025 where it raised two issues for determination as listed below: -
 - i. Whether the applicant has met the threshold for the grant of interlocutory injunctions?
 - ii. Whether the court should grant the mandatory order of injunction sought.
24. With regard to the plaintiff/applicant's application seeking to strike out the 2nd defendant/respondent's plaint dated 11th July 2025, the plaintiff/applicant filed its written submissions dated 1st November, 2025. Two issues for determination were raised as follows:-
 - i. Whether the 2nd respondent's claim is time barred.
 - ii. Whether the 2nd respondent's plaint is defective for non-disclosure of material facts.
25. The 2nd defendant/respondent filed its written submissions dated 11th September, 2025. The respective parties highlighted their submissions on 6th November, 2025. Both applications, the replies thereof, and the respective submissions as well as the highlighted submissions have all been carefully analyzed and considered. The issues for determination are as follows: -
 1. Whether the plaintiff/applicant in the counterclaim has established a prima facie case that would warrant the grant of injunctive orders pending the hearing and determination of the suit.
 2. Whether the plaintiff/applicant in the counterclaim is entitled to mandatory orders of injunction.
 3. Whether the plaint dated 11th July, 2025 ought to be struck out.



4. Who is to bear costs of both applications.
26. In deciding whether to grant temporary orders of injunction, this court guided by the well established principles enunciated in the case of *Giella versus Cassman Brown* [1973] E.A. 358 where it was held as follows:-
- “The condition for the grant of an interlocutory injunction are now, I think well settled in East Africa. First, an applicant must show a prima facie case with a probability of success. Secondly an interlocutory injunction will not be normally granted unless the applicant might otherwise suffer irreparable injury which would not adequately be compensated by an award of damages. Thirdly, if the court is in doubt, it will decide an application on the balance of convenience”.
27. The first fundamental issue to establish is whether the plaintiff/applicant has made a “prima facie” case with a probability of success. In the case of *Mrao –Versus - First American Bank of Kenya Ltd. & 2 Others* [2003] eKLR 125 “a prima facie” case was described as follows:-
- “A prima facie case in a civil application includes but not confined to “a genuine and arguable case”, it is a case which, on material presented to the court a tribunal property 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.”
28. In applying the above test to the circumstances of this case, I would first and foremost wish to point out that all of the issues argued in both applications have been raised in the defence, counterclaim, the reply to defence and the defence to the counterclaim that have been filed by the respective parties. This mean that ideally, the contested facts and issues are best to be argued during trial. While the plaintiff/applicant argued that the dispute between itself and the 2nd defendant/respondent dates back to 9th September, 2015, these facts remain sharply contested by the 2nd defendant/respondent who maintains that rent payment remains unsettled from the year 2009 where it contended that the plaintiff/applicant through mischief and conniving tendencies has dodged payment.
29. In maintaining that the 1st and 2nd defendants/respondents have interfered with its operations of the suit property, the plaintiff/applicant seeks injunctive orders restraining trespass and interference with rent collection as well as refund of the same. The plaintiff/applicant contended that the lease dated 9th September, 2015 is still in existence and is binding on the parties. If say for example, that the dispute between the parties dates back to this date, and having looked at the terms of this lease, and according to the rent payment schedule providing for the rent payment of the first five years and the 10 percent increase following after five years, the plaintiff/ applicant has not provided any evidence that it paid the rent according to these terms. As averred by the 2nd defendant/respondent, the reason for its re-entry and repossession of the suit property and subsequently letting the same to the tenants was that the plaintiff/applicant did not pay rent in the manner agreed. Having found this, and in the absence of proof of payment as provided in the lease, I do not find that the plaintiff/applicant has established a prima facie case.
30. The Court of Appeal in the case of *Rockland Kenya Ltd v Elliot White Miller* [1994] eKLR stated that:-
- “The object of an interlocutory injunction is to protect the plaintiff against injury by violation of his legal right for which he could not be adequately compensated in damages recoverable in the action if the matters in dispute were resolved in his favour at the trial.



However, his need for such protection must be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal right for which he could not be adequately compensated under the plaintiff's undertaking in damages if the subject matter of the trial was decided in his favour.”

31. Having found that the plaintiff/applicant has not established a prima facie case, and being mindful not to pronounce myself on issues which are best fit for trial, let me state that monetary claims as it is in this case can be compensated through damages, if at all the counterclaim succeeds. In the absence of a prima facie case, I need not determine the other two issues.
32. On whether mandatory orders of injunction should issue, the test in the case of Kenya Breweries Limited & another v Washington O. Okeyo [2002] KECA 284 (KLR) is a proper guide herein where it was stated as follows:-

“A mandatory injunction can be granted on an interlocutory application as well as at the hearing, but, in the absence of special circumstances, it will not normally be granted. However, if the case is clear and one which the court thinks it ought to be decided at once, or if the act done is a simple and summary one which can be easily remedied, or if the defendant attempted to steal a march on the plaintiff a mandatory injunction will be granted on an interlocutory application.”

33. For the court to issue mandatory orders of injunction, the plaintiff/applicant ought to demonstrate special circumstances which are of higher value that necessitate the need for these orders. The said circumstances ought to be clear and express leaving no room for doubt as to whether the court was indeed correct in granting the said orders at this stage. Based on the material placed before me, and in seeking orders compelling the refund of the rent collected and handing over the suit property, let me say that granting these orders in my view would amount to determining the substantive suit. As in doing so at this stage, the court would be seen to a great extent to be in agreement with the actions of the plaintiff/applicant who is the defendant in the main suit. I am not convinced that such exceptional circumstances exist in this case.
34. On whether the plaint dated 11th July, 2025 should be struck out, Order 2 Rule 15 of the Civil Procedure Rules provides that:-

“At any stage of the proceedings the court may order to be struck out or amended any pleading on the ground that—

- a. it discloses no reasonable cause of action or defence in law; or
 - b. it is scandalous, frivolous or vexatious; or
 - c. it may prejudice, embarrass or delay the fair trial of the action; or
 - d. it is otherwise an abuse of the process of the court, and may order the suit to be stayed or dismissed or judgment to be entered accordingly, as the case may be.”
35. The powers of court to strike out pleadings as provided by in the above provision of the law are discretionary, and the same ought to be cautiously exercised by court only after the party seeking to have the suit struck, presents a plain and obvious case that the pleadings are indeed an abuse of the court process and the only remedy available is to strike them out. It is well settled that a suit should not be struck out and a party is removed from the judgement seat unless it is otherwise shown that it has no course of action at all or a defence.



36. It is therefore necessary to consider whether or not the plaintiff's suit is an abuse of the court process. The plaintiff/applicant argued that the plaint dated 11th July, 2025 is statute barred by Sections 4 (1)(a) and (2) of the *Limitation of Actions Act*. Further, that the plaint failed to disclose the case filed before the Business Premises Rent Tribunal in case no. 922 of 2024, Nairobi CMELC No. E369 of 2024, HCCCOM No. E610 of 2024, Civil Appeal No. E965 of 2024 and the pending appeal before the Court of Appeal vide Civil Appeal No. 276 of 2025.
37. Section 4 (1) and (2) of the *Limitation of Actions Act* provides that actions may not be brought after the end of six years from the date on which the cause of action accrued–
- a. Actions founded on contract;
 - b. Actions to enforce a recognizance;
 - c. Actions to enforce an award;
 - d. Actions to recover a sum recoverable by virtue of a written law, other than a penalty or forfeiture or sum by way of penalty or forfeiture;
 - e. Actions including actions claiming equitable relief, for which no other period of limitation is provided by this Act or by any other written law.
2. An action founded on tort may not be brought after the end of three years from the date on which the cause of action accrued: provided that an action for libel or slander may not be brought after the end of twelve months from such date.”
38. Section 8 of the *Limitation of Actions Act* that provides that:-
- “An action may not be brought, and distress may not be made, to recover arrears of rent, or damages in respect thereof, after the end of six years from the date on which the arrears became due.”
39. I have looked at the plaint dated 11th July, 2025 and in pleading particulars of undue influence, coercion and duress emanating from the MOU dated 18th April, 2007 and the lease agreement dated 4th February, 2009, the 2nd defendant/respondent maintains that there was fraudulent entry at the Lands Registry against its title which it seeks relief from. It is these agreements that the 2nd defendant/respondents seeks the court's determination to enable a calculation of rent. As I understand the 2nd defendant/respondent, these two documents informed the lease dated 9th September, 2015 which whether through coercion, undue influence or fraud, cannot be determined at this stage.
40. In my view, until prayer (i). and (iii). of the plaint are determined, only then can the court find that the suit is statute barred by virtue of the stated provisions. In other words, the issues are all intertwined, as it all culminates to the dispute in this suit. On whether there is material non-disclosure of the relevant suits before court touching on this matter, let me state that this is the 2nd defendant/respondent's case, and it is upon it to disclose material that it feels is relevant to this case. More importantly, the plaintiff/applicant has not shown any adverse orders emanating from these suits that directly impact this suit and require the court's immediate attention at this stage. I do not find the plaint dated 11th July, 2025 statute barred or as an abuse of the court process.
41. From the above, it is clear that the plaintiff/applicant has failed to establish a prima facie that merits the orders of temporary injunction as well as mandatory injunction. In addition, this court finds that the



plaint dated 11th July, 2025 properly before the court, and the same is not an abuse of the court process. Both the notices of motion dated 18th July, 2025 are hereby dismissed as they lack in merit. Costs follow event, the 2nd defendant/respondent in the counterclaim is entitled to the costs of both applications.

Orders accordingly.

DATED, SIGNED & DELIVERED VIRTUALLY THIS 19TH DAY OF DECEMBER, 2025.

HON. MBOGO C.G.

JUDGE

19/12/2025.

In the presence of:

Mr. Benson Agunga - Court assistant

Mr. Ashioya holding brief for Mr. Nelson Havi for the Plaintiff/Respondent

Mr. Issa Mansur and Mr. Samuel Mbatai for the Defendant/Applicant

Mr. Ongeru for the 1st Defendant /Respondent

