

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ELC CASE NO 103 OF 2025

SUSAN KEMELI SUGUT
PLAINTIFF

VERSUS

DAVID YATICH1ST
DEFENDANT

AHMED KIPROTICH KIRUI2ND
DEFENDANT
MINISTRY OF LANDS, LAND ADJUDICATION
AND SETTLEMENT 3RD DEFENDANT

RULING

1. This ruling is in respect of a Notice of Motion dated 15th October 2025, by the Plaintiff/Applicant seeking the following orders:

a) Spent

b) THAT pending the hearing of this application inter partes, this court be pleased to issue temporary injunction orders to restrain the 1st and 2nd Respondents by themselves , servants , agents and employees acting on their behalf from wasting , interfering or harvesting the crops in the parcel of land Nos. Nakuru/Ngongongeri/663/686. (sic)

c) THAT pending the hearing of this application inter partes, this court be pleased to issue temporary injunction orders to restrain the 1st and 2nd Respondents by themselves , servants , agents and employees acting on their behalf from wasting , interfering or harvesting the crops in the parcel of land Nos. Nakuru/Ngongonger/663/686 pending the hearing and determination of this suit

d) THAT the costs of this application be provided for.

2. The application was supported by the undated affidavit of Susan Kimeli Sugut, the Plaintiff/Applicant who stated that she was evicted vide an eviction order from Molo court which she annexed. She further stated that police proceeded to demolish three houses, a store, two pit latrines and a chain-link fence rendering her homeless.
3. The Applicant also deponed that she had planted maize, potatoes and beans on 8 acres and fears that the 1st Defendant may harvest the maize and urged the court to allow the application as prayed.
4. The 1st and 2nd Defendant/Respondents filed a replying affidavit by Ahmed Kipruto Kirui dated 30th October 2025, and deponed that they are in occupation of the suit parcels of land as the rightful owners. He stated that the court cannot issue orders of injunction as the issue of the

land ownership was heard and determined on merit in Molo CMC ELC Case No 18 of 2020 which he annexed a copy of the judgment.

5. That the Plaintiff/applicant was aggrieved by the judgment and filed an appeal vide ELC Civil Appeal No. E2 of 2022, which was also dismissed. He further stated that the Plaintiff/applicant further filed an appeal to the Court of Appeal vide Civil Appeal No. E040 of 2024, before seeking leave to file an appeal out of time but the same was dismissed by the Court of Appeal.
6. It was his disposition that the eviction orders were executed by the Court Bailiff and the Officer Commanding Station provided assistance on 11th April 2025, and urged the court to dismiss the application with costs.

ANALYSIS AND DETERMINATION

7. The court will deal with the submission by counsel and the analysis together, as the issue for determination is straightforward. Counsel for the Plaintiff filed submissions dated 3rd November 2025, and reiterated the contents of the Application and attached photographs.
8. Submissions are not pleadings where you attach further evidence, if counsel wanted the court to consider the photographs, then, they should have been annexed to the supporting affidavit on oath to vouch for their authenticity.
9. Counsel further relied on the ruling by the court of appeal, which dismissed the plaintiff/applicant's application for extension of time to

file an appeal out of time for inordinate delay. Counsel cited a paragraph where the court opined that:

“The Applicant’s explanation for the urgency in the orders sought centers on alleged demolition activities that occurred on 11th April 2025, the very day this application was filed and irregular eviction orders from Molo Court which were “fake and not legit” while these allegations may well have merit, they do not constitute an explanation for the inordinate delay in filing this application. The proper avenue to challenge allegedly fraudulent eviction orders and land ownership claims is through substantive proceedings, not as justification for an extension of time. Application.”

10. The above did not give the Plaintiff/Applicant a ticket or lease of life to file another suit on the ownership of the land. The Plaint dated 15th October 2025, is not clear on what prayers the Plaintiff is seeking, as it lists particulars of fraud in respect of the acquisition of the suit land by the 1st and 2nd defendants.
11. The issue of the ownership of the suit land was determined vide a judgment dated 3rd February 2022, of which the Plaintiff appealed and was dismissed vide a judgment in ELC Civil Appeal No. E 2 of 2022 on 5th July 2023. The Plaintiff filed an application for extension of time to file an appeal in the Court of Appeal vide Civil Appeal No E040 of 2024, which was also dismissed on 9th October 2025.

12. Counsel for the 1st and 2nd Defendants filed submissions dated 4th November 2025, and reiterated the contents of the replying affidavit and submitted that the Plaintiff's application has been overtaken by events.
13. I agree with counsel for the Defendants that this application has been overtaken by events as, what purpose would an order of injunction serve at this juncture, when the eviction had already taken place, Courts do not give orders in vain.
14. I have considered the Application, the affidavits and the submissions by counsel and find that the application lacks merit and is therefore dismissed with costs to the 1st and 2nd Defendants.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 2ND DAY
OF FEBRUARY 2026.**

**M. A. ODENY
JUDGE**