



Singh v Vadve (Being as the administrator of the Estate of Ajit Singh Ram Singh alias Ajit Singh Vavde - Deceased) & 2 others (Environment and Land Case E124 of 2025) [2026] KEELC 560 (KLR) (6 February 2026) (Ruling)

Neutral citation: [2026] KEELC 560 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E124 OF 2025
MN KULLOW, J
FEBRUARY 6, 2026**

BETWEEN

JAGJEET RAM SINGH PLAINTIFF

AND

KHURSHEED AJIT SINGH VADVE (BEING AS THE ADMINISTRATOR OF THE ESTATE OF AJIT SINGH RAM SINGH ALIAS AJIT SINGH VAVDE - DECEASED) 1ST DEFENDANT

HAMIDA ABDI ALI MAALIM 2ND DEFENDANT

ABDINASIR MAALIM OSMAIL 3RD DEFENDANT

RULING

1. This matter is in relation to property known as Nairobi Block 69/130 formerly known as LR NO 209/3633 located at Eastleigh herein referred to as the suit property.
2. Vide Notice of Motion application dated 5th March 2025, the Applicant seeks the following orders:
 - a. Spent
 - b. Spent
 - c. That an order of injunction do issue restraining the 1st, 2nd and 3rd Defendants/Respondent by themselves or acting through their instructed agents, servants, employees, representatives and/or proxies from evicting the Plaintiff/Applicant from the land known as Nairobi Block 69/130 formerly LR No 209/3633 situated at south B
 - d. Costs of the application



3. The application was premised on grounds as in the supporting affidavit sworn by the applicant where he deponed that together with his late brother the deceased herein they had purchased the suit premises which was then registered in the deceased's names according to the Hindu customary law that required the elder brother to hold the property in trust for the family.
4. It was deponed that he had been in uninterrupted occupation since 1987 until when the 1st defendant served him with a notice to vacate the suit property which has now been sold to the 2nd and 3rd respondents.
5. That the applicant is facing threats of eviction and hence the filing of this application

1st Respondent's case

6. The 1st respondent filed a replying affidavit sworn on the 25th April 2025.
7. She deponed that the suit property had been acquired solely by the deceased and that as the wife to the deceased she had acquired the legal representation over the estate of the deceased and based on those rights she sold the same to the 2nd and 3rd respondents.
8. That the plaintiff was issued with a notice to vacate since he had no proprietary rights the same having been transferred to the 2nd and 3rd respondents.
9. She further deponed that the application was void of merit being that the plaintiff had not produced evidence to show that he had actually contributed to the purchase of the suit property and that the certificate of title was solely registered in the deceased's name attributing ownership to the deceased alone.
10. She deponed that the applicant had not proved a prima facie case, not proved how irreparable harm will be occasioned to him and lastly the balance of convenience did not favour him

2nd and 3rd Respondent's case

11. The case was pegged on the fact that they were innocent purchasers for value having bought the suit property from the 1st respondent who was duly authorized to transact on the suit property. That the sale was done via a sale agreement dated 3rd May 2023 transfer documents executed in their favour, which transfer was registered in their names making them the legally registered proprietors.
12. The respondents indicated that the application for injunction was not merited

Applicant's submissions

13. The applicant reiterated the contents in the application that he was the legally registered owner of the suit property and that the purchase of the suit property and transfer to the 2nd and 3rd defendants was done unlawfully.
14. The applicant raised the following issues for determination
 1. Whether the applicant is entitled to the orders of injunction
 2. Who should bear the cost of the suit?
15. Counsel submitted that applicant had met the conditions for grant of the injunctive orders relying in the decision in *Nguruman Limited Versus Jan Bonde Nielsen & 2 Others* CA NO.77 OF 2012 (2014) eKL



1st Respondent's submissions

16. The main issue submitted on was whether the applicant had made out a case for the granting of the temporary injunctions. It was their submission that granting the injunction would result in irreparable loss, particularly the 2nd and 3rd Defendants who purchased the property as bona fide purchasers for value without notice of the Plaintiff's claim. It would also impede the 1st Defendant's ability to prevent the loss of her matrimonial home abroad. On the other hand, denying the injunction poses no irreparable harm to the Plaintiff and further the plaintiff had failed to establish a prima facie case hence not met the threshold for issuance of injunctive orders.

2nd and 3rd Respondent's submissions

17. The respondents submitted as in their replying affidavit indicating that they were bona fide purchasers for value relying on the case of Mutua (suing as the legal representative of the estate of Raymond Mutua Kikwa Vs Kithini (2022) KEELC 14704 KLR.
18. That having established their proprietary rights over the suit property, the plaintiff therefore had no interest that had been proved to warrant proof of a prima facie case and neither demonstrated any loss that could not be compensated by way of damages.
19. That the balance of convenience tilted in not granting the orders of injunction

Analysis and determination

20. Having looked at the application, the responses and submissions by all parties, the substantial issues for determination are
 1. Whether the Applicant have satisfied the threshold required for issuance of temporary injunctive orders
 2. Whether the 2nd and 3rd respondents are innocent bona fide purchasers for value
21. The law on granting interlocutory injunctions is set out under Order 40 Rule 1 (a) and (b) of the Civil Procedure Rules as follows:

“Where in any suit it is proved by affidavit or otherwise –

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

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 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.”
22. The principles for grant of injunction are well settled by the locus classicus of *Giella Vs Cassman Brown & Company Limited* [1973] E.A. 358., where the court stated thus:

“First, an applicant must show a prima facie case with a probability of success. Secondly, an interlocutory injunction will not normally be 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.”

23. The important consideration before granting a temporary injunction under Order 40 Rule 1 of the Civil Procedure Rules is the proof that any property in dispute in a suit is in a danger of being wasted, damaged or alienated by any party to the suit or wrongfully sold in execution of a decree or that the defendant threatens or intends to remove or dispose the property, the court is in such a situation is enjoined to grant a temporary injunction to restrain such acts.
24. In the instant case, it is not in dispute that the property is registered in the name of the 2nd and 3rd respondents. The applicant’s case is that the 1st respondent sold the suit property to the 2nd and 3rd respondents without considering that he jointly owned the suit property with the deceased hence was the legally registered owner.
25. The applicant has attached documentary evidence in form of payment receipt for the suit property to back his claim on ownership. A perusal through the supporting affidavit points to no other document that can corroborate the facts pleaded on that he jointly purchased the suit property with the deceased. There is no sale agreement on record neither is there any proof of payment to substantiate the said alleged purchase. In my view the applicant has failed to show any legitimate interest on the suit property and hence failure to prove prima facie case.
26. In *Mrao Ltd vs. First American Bank of Kenya Ltd & 2 Others* [2003] eKLR a prima facie case was stated as “A prima facie case in a civil application includes but is not confined to a “genuine and arguable case.” It is a case which, on the material presented to the court, a tribunal properly 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.”
27. The fact that there are no rights that will be infringed on, then the applicant has also not shown how irreparable harm will be occasioned to him
28. That the 1st defendant on the other hand has indicated that she is the legal representative of the estate to the deceased and produced the certificate of confirmation of grant that allowed her deal with the deceased’s estate. She then sold the suit property to the 2nd and 3rd defendants who indicate they are innocent purchasers for value .
29. They have attached a copy of the search certificate of the property to prove that they carried out due diligence and after carrying out due diligence entered into an agreement for sale dated 3rd March 2023 attached to their replying affidavit.
30. Based on this sale, the 2nd and 3rd respondents were issued with a certificate of title which gave them proprietary rights and as such they have all then rights that pertain to a person with a certificate of title
31. It has been established that a certificate of title is held to be prima facie evidence of ownership of the stated land. This is provided for in Section 26(1) of the [Land Registration Act](#) which provides; -
 - “The certificate of title issued by the Registrar upon registration or to a purchaser of land upon a transfer ... shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner ... and the title of that proprietor shall not be subject to challenge, except –
 - (a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or



(b) where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.”

32. I hold the view that the 2nd and 3rd respondents have established that their title is legitimate and that the said purchase of the suit property was done legally. The certificate of title has not been challenged by production of credible evidence to back the claim of illegal purchase.
33. Being that the suit property is in the names of the 2nd and 3rd respondents, then it goes without saying that they are entitled to enjoy indefeasible rights and the balance of convenience shifts in not granting the injunctions than in granting as the 2nd and 3rd respondents will suffer as irreparable harm of losing the rights to their property will.
34. The upshot of the foregoing is that the application is for injunction is merited and orders of temporary injunction as prayed for are not warranted. The court makes the following orders
1. The application dated 24th March 2025 is hereby dismissed.
 2. Costs to be borne by the applicant

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI ON THIS 6TH DAY OF FEBRUARY 2026.

MOHAMMED N. KULLOW

JUDGE

Ruling delivered in the presence of: -

Ms. Shemula holding brief for Odero for the Plaintiff/Applicant

Ms. Nyakoa for Wandari for 1st Respondent

Mr. Nyaunda for 2nd and 3rd Respondents

Philomena W . Court Assistant

