

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT.

AT MOMBASA

CAUSE NUMBER E 071 OF 2025

SIAGI BEACH VILLA COTTAGES LTD .....CLAIMANT/APPLICANT

VERSUS

SOPHIE MWADIME.....RESPONDENT

RULING

1. By a Notice of Motion application dated 5<sup>th</sup> July 2025, the Claimant /Applicant6 seeks the following orders against the Respondent;

**a) That the matter herein be certified urgent, service thereof be dispensed with and the same be heard *ex-parte* in the first instance.**

**b) THAT pending the hearing and determination of this application *inter- partes*, this Honourable Court be pleased to issue a temporary injunction**

**restraining the Respondent, whether by herself, her agents, servants or any other person acting on her behalf, from accessing, occupying, or interfering with the Claimant's property and or affairs of the company, specifically the staff premises and operational offices at Kivulini Beach Villas and Cottages located on Kwale/ S. N / Kundutsi " A" /2370.**

**c) THAT the Officer Commanding Station of Diani Police Station do ensure enforcement and compliance of prayer No.2 hereinabove.**

**d) THAT pending the hearing and determination of the main suit, this Honourable Court be pleased to issue a temporary injunction restraining the Respondent, whether by herself, her agents, servants or any other person acting on her behalf, from accessing, occupying , or interfering with the Claimant's property, and or affairs of the claimant company, specifically the staff premises**

**and operational offices at Kivulini Beach Villas and Cottages on Kivulini Beach Villas and Cottages located on KWALE / S.N / KUNDUSI “ A” / 2370.**

**e) THAT pending the hearing and determination of the main suit, this Honourable Court be pleased to issue a mandatory injunction compelling the Respondent;**

- I. Immediately vacate the Claimant's staff premises;
- II. All company documents and records;
- III. Keys providing access to the accommodation, offices, and other dwellings on the property.
- IV. The company's used laptop.
- V. Keys to the office safe, along with the current pin code.
- VI. Master pin codes for all safety boxes.
- VII. Booking records, including detailed information on the guest reservations, arrival dates, and deposits.

**f) THAT pending the hearing and determination of the main suit, a temporary injunction do issue restraining the Respondent from disclosing or using in any manner whatsoever any confidential information acquired during her employment.**

**g) THAT the costs of this application be awarded to the Claimant/Applicant.**

2. The application is premised on the grounds set out on the face thereof, and the supporting affidavit sworn on 5<sup>th</sup> July 2025, by Andrea Leslie Savage, and a further affidavit sworn by him on 21<sup>st</sup> July 2025.
3. The Respondent opposed the application on the basis of the grounds set out in her replying affidavit, sworn on 30<sup>th</sup> July 2025.
4. Upon being served with the further affidavit mentioned hereinabove, the Claimant issued a Notice to Cross-examine

the deponent. Subsequently, the deponent of the affidavit was cross-examined in detail regarding its contents.

5. This Court directed that the application be canvassed by way of written submissions. The parties have consequently filed their respective submissions.

6. I have carefully reviewed the application, the Claimant's two affidavits mentioned above, the replying affidavit, the Claimant's Statement of Claim, and, more specifically, the factual basis for the claim and the reliefs sought. I have also considered the evidence that emerged during the cross-examination of the deponent of the further affidavit, along with the submissions made by Counsel for the parties. There is a very fine line between the facts relied on by the Claimant/Applicant to support their claim and the reliefs sought, and those supporting the current application and the prayers sought therein. The submissions have been presented as final arguments for and against the substantive claim. The risk of this Court's ruling appearing as a

predetermined judgment, if I were to consider the application in detail, abounds.

7. The overriding objective of this Court is to facilitate a just, expeditious, proportionate, and efficient determination of disputes placed before it. In the present circumstances, the Court is mindful of the constitutional mandate enshrined in Article 159 of the Constitution of Kenya, 2010, which obligates this Court to expeditiously determine matters.
8. This Court is of the considered view that the interest of justice would be better served by declining to issue the mandatory interim orders sought. Instead, the appropriate course is to direct that the substantive suit be set down for hearing on a priority basis. This will afford the parties a full opportunity to present their respective cases through viva voce evidence, to call and examine witnesses, and to subject the evidence tendered to the rigours of cross-examination. Through such a process, the credibility, weight, and probative value of the competing evidence can be properly tested and evaluated.

9. Orders accordingly.

**Read Signed and Delivered this 12<sup>th</sup> Day of March 2026.**

**OCHARO KEBIRA**

**JUDGE**

ORIGINAL