



REPUBLIC OF KENYA



**Ndehi (Suing on behalf of Super Micro Ventures Self Help Group) v Kimuhu & another
(Environment & Land Case E049 of 2024) [2024] KEELC 5001 (KLR) (24 June 2024) (Ruling)**

Neutral citation: [2024] KEELC 5001 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT & LAND CASE E049 OF 2024**

JG KEMEI, J

JUNE 24, 2024

BETWEEN

**MARGARET WANJIRA NDEHI (SUING ON BEHALF OF SUPER MICRO
VENTURES SELF HELP GROUP) PLAINTIFF**

AND

PETER NJOGU KIMUHU 1ST DEFENDANT

LAND REGISTRAR, RUIRU 2ND DEFENDANT

RULING

1. Before Court is the Plaintiff's/Applicant's Notice of Motion dated 3/4/2024 seeking in the main temporary injunction against the 1st Defendant from interfering or dealing in any way with land title number Ruiru Kiu Block 2 (Githunguri)/18315, Ruiru Kiu Block 2 (Githunguri)/18316, Ruiru Kiu Block 2 (Githunguri)/18317 and Ruiru Kiu Block 2 (Githunguri)/18318 (hereinafter the suit properties) pending the hearing and determination of this suit. In the alternative and without prejudice to the forgoing, the Plaintiff prays for status quo in respect of the suit properties be maintained pending the hearing of the suit. The Application is based on the grounds on the face of it and the Supporting Affidavit of Margret Wanjiru Ndehi, the Plaintiff.
2. In objection, the 1st Defendant filed a Preliminary Objection dated 26/4/2024 stating that the suit is time barred in light of Section 7 *Limitation of Actions Act* Cap 22. Contemporaneously she filed her Notice of motion of even date raising the pleas of res judicata and sub judice on the basis of another suit namely Ruiru Spmcc No. E024 of 2023 between the instant parties.
3. The 2nd Defendant did not file any response.
4. On 30/4/2024 directions were taken and parties elected to prosecute the Motions and Preliminary Objection by way of written submissions.



5. Before delving into the merits of the 1st Defendant's Preliminary Objection and Application, it is imperative to address the competency of the Plaintiff's Notice of Motion dated 3/4/2024. The Application is expressed under Order 40 rule 1, Order 51 and Sections 1A and 1B of the *Civil Procedure Act*.
6. The Application is predicated on a Plaintiff dated 2/4/2023 whose heading is 'In the Senior Magistrate's Court at Ruiru ELC of 2023'. The accompanying Verifying Affidavit reads 'In the Environment and Land Court at Thika ELC Case No of 2024'. These two pleadings are at variance and more worrying is the effect that in light of the said 'Plaint' there is no substantive suit before this Court for the Applicant's Notice of Motion dated 3/4/2024 to stand on.
7. Accordingly, the Notice of Motion dated 3/4/2024 is for striking out with costs to the 1st Defendant only.

DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA THIS 24TH DAY OF JUNE 2024 VIA MICROSOFT TEAMS.

J G KEMEI

JUDGE

