



**Ahli Entrprises Ltd v Zimbi & 2 others; Hon County Attorney-Kwale & another (Interested Parties) (Environment & Land Case E042 of 2023) [2024] KEELC 5429 (KLR) (24 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5429 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KWALE  
ENVIRONMENT & LAND CASE E042 OF 2023**

**AE DENA, J**

**JULY 24, 2024**

**BETWEEN**

**AHLI ENTRPRISES LTD ..... PLAINTIFF**

**AND**

**PETER MUTUA ZIMBI ..... 1<sup>ST</sup> DEFENDANT**

**JOHN SAWE ..... 2<sup>ND</sup> DEFENDANT**

**ABDI ALI ..... 3<sup>RD</sup> DEFENDANT**

**AND**

**HON COUNTY ATTORNEY-KWALE ..... INTERESTED PARTY**

**RED BRIDGE FARM LTD ..... INTERESTED PARTY**

**RULING**

1. This court is tasked with determination of twin applications dated 9/10/2023 and 28/11/2023. A further application was made before court on 19/10/2023 to amend a prayer in the application of 9/10/2023.

**Application dated 9/10/2023**

2. The Notice of Motion dated 9/10/2023 seeks the following orders;
  1. Spent
  2. Pending the hearing and determination of this application, this Honourable court do issue a temporary injunction restraining the 3<sup>rd</sup> Defendant whether by themselves, his employees, agents and any representatives whatsoever from trespassing, encroaching remaining on the



leased suit property or in any other manner howsoever from dealing with all that property comprised in land reference number 19128 [CR-45368] within Taita Kwale Area.

3. Pending the hearing and determination of this suit, this Honourable court do issue a temporary injunction restraining the 3<sup>rd</sup> Defendant whether by themselves, his employees, agents and any representatives whatsoever from trespassing, encroaching remaining on the leased suit property or in any other manner howsoever from dealing with all that property comprised in Land Reference No 19128[CR-45368] within Taita Kwale Area.
  4. Pending the hearing and determination of this application this Honourable court be pleased to issue a mandatory injunction compelling the 3<sup>rd</sup> Defendant to forthwith vacate the leased suit property and allow the Plaintiff enjoy peaceful occupation of the leased portion known as Land Reference No 19128[CR-45368] within Taita Kwale Area.
  5. The Honourable court be pleased to issue an order directing the OCS Kinango Police Station to ensure compliance with the orders above.
  6. That costs of this application be provided for.
- 3 The application is premised upon grounds listed on its face and the supporting affidavit of Abdirahman Mohamed Elli the director of the Plaintiff who averred that on 20/6/2023 the court issued status quo orders restraining the Plaintiff's eviction from the leased suit property. That at the time of filing the application, the status quo orders were still in force. That however on 7/10/2023 the Plaintiff's security guards were illegally detained at Lunga Lunga Police Station under the instructions of the 2<sup>nd</sup> Defendant John Sawe the Deputy County Commissioner Kwale.
- 4 The deponent states that upon calling the 2<sup>nd</sup> Defendant for inquiry as to why his guards had been arrested, he was informed that a complaint had been made about the 3<sup>rd</sup> Defendant over being denied access to the Suit property for grazing his livestock. That the 2<sup>nd</sup> Defendant further made a request that the 3<sup>rd</sup> Defendant be allowed to graze his livestock on the suit property which request was denied. That the security guards were later in the night released without any charges being preferred against them. It is stated that upon getting to the suit property, the guards found a huge herd of livestock grazing on the land on the morning of 8/10/2023 and were informed the same belonged to the 3<sup>rd</sup> Defendant. That upon inquiring from the 3<sup>rd</sup> Defendant why he was invading the suit property despite the status quo orders being in place, the 3<sup>rd</sup> Defendant allegedly informed the plaintiff that the orders had since lapsed and there were no orders restraining him from using the suit property.
- 5 The Plaintiff states that despite being a bonafide lessee of the suit property, he had been denied the right to peaceful use and ownership of the same by the 3<sup>rd</sup> Defendant's actions and hence the necessity of the instant application.

### **2<sup>nd</sup> Defendant's response to application dated 9/10/2023**

- 6 In response to the application, the 2<sup>nd</sup> Defendant swore an affidavit prepared by the AG. He avers that the application has been brought contrary to the provisions of Section 12 of the [Government Proceedings Act](#) and Section 22 of the [National Government Coordination Act](#) No 1 of 2023 which protects public officers from personal liability while executing their duties. That the application is incompetent and ought to be struck out. According to the deponent, he is the chairman of the sub county intelligence and security team. That he received a report over fights between herders at Mnarani Area and which after assessment was found to be a security threat which had the possibility of escalating to a dangerous situation. That he instructed that parties from the Plaintiff and 3<sup>rd</sup> Defendant side be accompanied to the police as the situation was being further assessed.



7 The deponent stated that upon reaching the Lunga Lunga Police Station, the parties talked and reached an agreement and were released without charges. It is stated that the Plaintiff does not seem to know the boundaries to the property yet he is complaining of trespass. That the allegations that the deponent allowed the 3<sup>rd</sup> Defendant to graze on the land are unsubstantiated and the same ought to be disregarded by the court. The court is urged to dismiss the application.

### **3<sup>rd</sup> Defendant's response to the application dated 9/10/2023**

8 The 3<sup>rd</sup> Defendant responded to the application vide a replying affidavit filed before court on 26/10/2023. It is averred that the photographic evidence tendered by the Plaintiff should be disregarded by the court for failure to meet the provisions of Section 106[B] of the Evidence Act as they are not accompanied by a certificate of electronic evidence. It is averred that the Plaintiff is not the registered owner of the suit property as the same has a restriction lodged by the National Land Commission vide its letter dated 7/2/2018. With this in mind, the Plaintiff has no locus standi to institute the suit and prosecute the instant application. It is further averred that the application has not met the threshold for grant of the orders sought as was stipulated in the Giella Versus Cassman Brown Case on grant of injunctions. The court is urged to find the application unmerited and to dismiss the same with costs.

### **Applicant's further affidavit**

9 In response to the 3<sup>rd</sup> Respondent's replying affidavit, the Applicant filed a further affidavit before court on 30/10/2023. It is averred that indeed the 3<sup>rd</sup> Respondent's camels were on the suit property and the photos taken were of the said camels. It is stated that the restrictions placed by the National Land Commission were done so erroneously and vide a letter dated 13/2/2019 the land registrar was asked to remove the same. The Applicant maintains that he is a lawful rent paying lessee whose tenancy should be protected by the court. the court is asked to allow the peaceful and uninterrupted use of the suit property by the Applicant.

### **2<sup>nd</sup> Interested Party's Affidavit**

10 The 2<sup>nd</sup> Interested Party through its director Katany Vinubhai Karania stated that on 23/6/2021 a lease agreement was executed between the 2<sup>nd</sup> Interested Party and the Plaintiff herein. The deponent states that he is in full support of the application by the Plaintiff/Applicant herein. It is averred that the Plaintiff is in use and occupation of the suit property. That as per the letter dated 7/2/2018, the National Land Commission put its decision on hold over the suit property for lack of information and sought for the same from the County Government of Kwale and the Ministry of Lands and Physical Planning. That if anything, The National Land Commission had no jurisdiction over the land as the 5-year period had lapsed. That on 13/2/2019 the National Land Commission informed the County Government of Kwale that it had reverted the land back to its original owner. On 4/3/2019 the Commission informed the land registrar Mombasa to lift any restrictions that has been imposed on the land. It is stated that the mere fact that the Plaintiff is not the registered owner of the land does not deprive him of use of the same given that he leased it lawfully. The deponent is apprehensive that if the application is not allowed the Plaintiff and the 2<sup>nd</sup> Interested Party will be forcefully evicted from the suit property.

### **Applicant's Further Affidavit**

11 The Applicant filed another further affidavit before court on 22/1/2024. It is averred that the 2<sup>nd</sup> Respondent's actions amount to abuse of office as he has taken personal interest over the matter at



hand. That beacons have been erected on the land and the property is identifiable on the ground. It is alleged that vide Gazette Notice No 184 of 1994 issued on 10/1/1994 which is over allocation of the suit property, the coordinates to the property are properly indicated. The Applicant maintains that it will be in the interest of justice for the orders sought in the application of 9/11/2023 to be granted.

- 12 When the matter came up before the court on 1/11/2023, the application allowing the amendment of the application to replace the OCS Lunga Lunga with OCS Kinango was allowed. Orders for disposal of the application were then issued appropriately.

### **Applicant's application dated 28/11/2023**

13. The 2<sup>nd</sup> application is still by the Plaintiff/Applicant. The same is dated 28/11/2023. The Applicant seeks for the following orders;

1. Spent
2. That an order of committal to prison be made against the 3<sup>rd</sup> Defendant for a period of 6 months.
3. That the Defendant/Respondent be ordered to pay mesne profits for the period of illegal encroachment and compensate the Plaintiff/Applicants employees for the injuries inflicted.
4. That the Honourable court grants any other order or further orders of the Honourable court geared towards protecting the dignity and authority of the Honourable court deemed expedient in the circumstances.
5. That the costs of this application be met by the Defendant/Respondent.

- 14 The application is supported by an affidavit sworn by Abdirahman Mohammed Elmi the director of the Plaintiff/Applicant herein. He avers that status quo orders were issued by this court on 20/6/2023 and the same have been extended since then. It is confirmed that the said orders were served upon the 3<sup>rd</sup> Defendant through WhatsApp and that he has been actively participating in the suit. It is stated that in a bid to enforce the orders, law enforcement officers from Kinango Police Station were met with resistance from the 3<sup>rd</sup> Defendant agents and which resulted in the injuries on the Plaintiff's employees. The Applicant attached photos thereof. It is stated that the 3<sup>rd</sup> Respondent has left his animals to invade the suit property and is in current use of the same and hence the need for filing the instant application.

Orders of 1/12/2023

- 15 The matter was placed before this court on 1/12/2023 and the following orders were issued by the court; -

1. That some of the issues raised are purely a criminal nature and therefore it is incumbent upon the relevant agency to act appropriately in accordance to their mandate and apprehend the culprits. As to the application of contempt, contempt is a serious matter that can culminate into arrest of parties and orders sought cannot be granted exparte without according the parties the right to be heard.
2. That the application dated 28<sup>th</sup> November 2023 be served.
3. That the application dated 28<sup>th</sup> November 2023 is hereby not certified urgent since I have already observed this situation can be handled by the relevant government agency under the criminal justice system.



### **3<sup>rd</sup> Respondent's Response**

16 In opposing the application, the 3<sup>rd</sup> Respondent filed a replying affidavit sworn on 28/2/2024. The 3<sup>rd</sup> Respondent denies any service of the temporary injunction on him and states that no proof has been tendered before court. It is stated that the 3<sup>rd</sup> Respondent is not among the pastoralists that went to graze on the land. That the Applicant has failed to prove to the required standard that the 3<sup>rd</sup> Respondent disobeyed the court orders issued on 1/11/2023. The 3<sup>rd</sup> Respondent prays that the entire application be struck out for want of compliance with the mandatory requirements of an application of such nature.

### **Submissions**

17. The applications were canvassed by way of written submissions. The court has considered all the submissions filed by the parties who participated in the applications.

### **Discussions and Determination**

18. The twin applications are by the Plaintiff. The court having perused the applications, the responses thereto both for and against the applications, the submissions by the parties herein, the following issues arise for determination;

1. Whether the Applicant's application dated 9/10/2023 is merited.
2. Whether the 3<sup>rd</sup> Respondent should be cited for contempt of court orders.
3. Who bears the costs of both applications?

19 When this matter was first brought before court, the same was vide an application dated 19/6/2023. The applicant sought for temporary orders of injunction against the 3<sup>rd</sup> Respondent herein having been apprehensive of an eviction by the said 3<sup>rd</sup> Respondent. On 20/6/2023, I issued the following orders which have been in place since then;

1. That this application is certified urgent.
2. That pending service of the suit papers and application herein the status quo shall be maintained in accordance to the terms of the lease dated 23/6/2021 and there shall be no eviction of the Applicant, his servants and or agents from the suit leased property comprised in LR No 19128[CR-45368] within Taita Area/County.
3. That the Officer Commanding Station Lunga Lunga Police Station to ensure compliance with these status quo order.
4. That these status quo orders shall be valid until 17/7/2023.
5. That the application be served upon the Respondents for interpartes hearing.
6. That the Respondents shall upon service reply to the application within 14 days and the Applicant is at liberty to respond further within 7days.
7. That interpartes hearing will be on 17/7/2023.

20 Subject to the application to amend the 5<sup>th</sup> prayer in the application and which was granted by this court, the OCS Kinango Police Station was tasked with ensuring the status quo orders.



21 The Black’s Law Dictionary, Butter Worths 9<sup>th</sup> Edition, defines Status Quo as a Latin word which means “the situation as it exists”.

The purpose of an order of status quo has been reiterated in a number of decisions.

22 In *Republic v National Environment Tribunal, Ex-parte Palm Homes Limited & Another* [2013] e KLR, Odunga J. stated,

“When a court of law orders or a statute ordains that the status quo be maintained, it is expected that the circumstances as at the time when the order is made or the statute takes effect must be maintained. An order maintaining status quo is meant to preserve existing state of affairs...Status quo must therefore be interpreted with respect to existing factual scenario...”

23. From the record, the court issued status quo orders upon the Plaintiff’s application for orders of temporary injunction. Despite these orders being in place, the further affidavit of Abdirahman Mohamed Elmi the director of Plaintiff herein states that the 3<sup>rd</sup> Respondent invaded the suit property herein and took over the same by allowing his animals to graze on the land. That further, his employees who were charged with taking care of his property on the suit property were attacked and injured. I see several photographs in evidence of this. My attention has also been drawn to the P3 forms attached and which confirm that an attack indeed took place where people were injured. As earlier indicated in the orders granted on 20/6/2023, the activities alluded to as having taken place on 9/11/2023 are criminal in nature as they are assault. However, these attacks are directly linked to the suit herein as they took place on the suit property and resulted from the disputed ownership of the suit property.

24. It is of great concern that despite status quo orders being in place, the suit property was still invaded and destruction occasioned. The purpose of status quo orders as has been captured in the authority above is to maintain things as they are. The court in issuing the same is normally interested in ensuring that no more activities take place pending further orders and determination of a suit. This has not been the case in the instant suit. What is to be determined therefore is whether the Applicant is entitled to the temporary orders of injunction sought and further the mandatory injunction the status quo orders having not worked.

25. The application is anchored under the provisions of Order 40 Rule 1(a) of the *Civil Procedure Rules* which provides: -

1. Where in any suit it is proved by affidavit or otherwise—
  - a. 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
  - b. .... 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.

26. The principles of granting temporary injunction are very clear and well enunciated in the celebrated case of *Giella v. Cassman Brown* where the court stated the conditions for grant of interlocutory injunctions as follows;

“The conditions for the grant of interlocutory injunction are now I think well settled in East Africa. First an applicant must show a prima facie case with 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. Has the Plaintiff/Applicant made out a prima facie case with a probability of success? In the case of *Mrao versus First American Bank of Kenya Limited & 2 Others* (2003) KLR 125, a prima facie case was described as follows:

“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.”

28. The Applicant attached a copy of a lease agreement contracted between them and the 2<sup>nd</sup> Interested Party herein. The 2<sup>nd</sup> Interested Party are also lessors of the suit property vide the certificate of title attached to the application which indicates a lease of 66 years from 1/3/1994 over the suit property. The legality and authenticity of this title has not been challenged by the 3<sup>rd</sup> Defendant herein. Neither has the 3<sup>rd</sup> Defendant referred to any documentation evidencing any ownership of the suit property by him. With this in mind, the court opines that a prima facie case has been established.
29. The next issue to be determined by the court is whether the Applicant has established the possibility of any loss or injury to be suffered in the event that the prayers sought are not granted. I will first make reference to the numerous complainants I have seen as having been lodged at the police by both the Plaintiff and the 3<sup>rd</sup> Respondent herein. From the record and as per the affidavit that was sworn by the 2<sup>nd</sup> Defendant the Deputy County Commissioner, wrangles between the Plaintiff and the 3<sup>rd</sup> Defendant arose over the use and occupation of the suit property.
30. It is stated that the Plaintiff’s employees were arrested and taken to the Lunga Lunga Police Station and were later released. No charges were preferred against them. The Plaintiff states that the 3<sup>rd</sup> Respondent’s agents/employees invaded the land and are using the same for grazing without his permission. The 3<sup>rd</sup> Respondent on the other hand states that the camels which allegedly graze on the land do not belong to him and it has been a matter of inquiry as to who they really belong to. What is confirmed is that indeed there are animals grazing on the land, the Plaintiff states that the same do not belong to him either but are utilising his land. This in my view is enough proof of the loss that is to be incurred as a result of the invasion. The second element has therefore been proved.
31. The balance of convenience automatically tilts towards the Applicant herein. It is therefore necessary that the prayers sought be granted the threshold for temporary injunction having been met.
32. Does the Applicant qualify for grant of the mandatory injunction sought based on the set of facts and evidence presented before the court? In distinguishing the difference between the temporary injunction granted above herein and the mandatory injunction orders that have been further sought, I will refer the parties to *Shepard Homes – Versus – Sandham* (1970) 3 WLR Pg. 356 Case in which Megarry .J persuasively stated as follows:-

“Whereas a Prohibitory Injunction merely requires abstention from acting, a Mandatory Injunction requires the taking of positive steps, and may require the dismantling or destruction of something already erected, or constructed. This will result in a consequent



waste of time, money and materials. If it is ultimately established that the Defendant was entitled to retain the erection”.

33. The circumstances under which the Court would grant a Mandatory Injunction was well stated out by the Court of Appeal in the Case of Malier Unissa Karim –Versus - Edward Oluoch Odumbe (2015) eKLR as follows: -

“The test for granting a Mandatory Injunction is different from that enunciated in the “*Giella –Versus - Cassman Brown* case which is the locus classicus case of Prohibitory Injunctions. The threshold in Mandatory is higher than the case of Prohibitory Injunction and the Court of Appeal in the case of “*Kenya Breweries Ltd-v- Washington Okeyo* (2002) EA 109” had the occasion to discuss and consider the principles that govern the grant of a Mandatory Injunction was correctly stated in Vol. 24 Halsbury Laws of England 4<sup>th</sup> Edition Paragraph 948 which states 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 ought to be decided at once or if the act done is simple and summary one which can be easily remedied, or if the Defendant attempts to steal a march on the Plaintiff, a Mandatory Injunction will be granted on an Interlocutory application”.

34. It is clear that grant of mandatory injunction automatically cements the claims of parties in a suit as they are permanent in nature. The ownership of the suit property is contested by not only the 3<sup>rd</sup> Defendant but also the County Government of Kwale. The court has noted all the arguments that have been advanced by the parties herein and from the same, it has concluded that there is the need for the parties to be allowed to ventilate their respective cases before a determination is made as to who the lawful owner of the suit property is. I do not seem to find any special circumstances that warrant the grant of mandatory injunctive orders at this stage.

35. The court will now embark on the second issue for determination. Section 5(1) of the Judicature Act grants the High Court and the Court of Appeal the power to punish for contempt. It provides:(1) The High Court and the Court of Appeal shall have the same power to punish for contempt of court as is for the time being possessed by the High Court of Justice in England and that power shall extend to upholding the authority and dignity of subordinate courts.

36. Mativo J. restated the test for establishing contempt in his decision in Samuel M. N. Mweru & Others v National Land Commission & 2 others [2020] eKLR where he stated –

“

“40. It is an established principle of law that in order to succeed in civil contempt proceedings, the applicant has to prove

- (i) the terms of the order,
- (ii) Knowledge of these terms by the Respondent,
- (iii) Failure by the Respondent to comply with the terms of the order.

Upon proof of these requirements the presence of wilfulness and bad faith on the part of the Respondent would normally be inferred, but the Respondent could rebut this inference by contrary proof on a balance of probabilities. Perhaps the most comprehensive of the



elements of civil contempt was stated by the learned authors of the book *Contempt in Modern New Zealand* who succinctly stated: -

“There are essentially four elements that must be proved to make the case for civil contempt. The applicant must prove to the required standard (in civil contempt cases which is higher than civil cases) that: -

- a. The terms of the order (or injunction or undertaking) were clear and unambiguous and were binding on the defendant;
- b. The defendant had knowledge of or proper notice of the terms of the order;
- c. The defendant has acted in breach of the terms of the order; and
- d. The defendant's conduct was deliberate.”

37 The nature and purpose of contempt proceedings was summarised in [\*Samuel M. N. Mweru & Others v National Land Commission & 2 others\*](#) [2020] eKLR where Mativo J stated

“Contempt of court is not merely a mechanism for the enforcement of court orders. The jurisdiction of the superior courts to commit recalcitrant litigants for contempt of court when they fail or refuse to obey court orders has at its heart the very effectiveness and legitimacy of the judicial system. That, in turn, means that the court called upon to commit such a litigant for his or her contempt is not only dealing with the individual interest of the frustrated successful litigant but also, as importantly, acting as guardian of the public interest”.

38 I will not delve much into the issue of contempt of the status quo orders having been disregarded by the 3<sup>rd</sup> Respondent herein. The reason for the same is that it is not in dispute that the orders were indeed not obeyed as was expected. The happenings of 9/11/2023 speak to this fact. Contempt proceedings are likened to criminal proceedings given the repercussions that come along with disobedience of court orders. In essence they are to be proved with military precision and not just mere allegations that are not substantiated with evidence. Upon the report of the wrangles between the Plaintiff and 3<sup>rd</sup> Respondent being made at the police station, the said persons were released without an investigation on who they were and who they were working for. The 3<sup>rd</sup> Respondent states that no proof has been tendered over the alleged service of the orders upon him. But on the flip side the court notes that he did respond to the application which confirms that he was served and hence responded to the same.

39 From the record, the court is not convinced that any evidence has been tendered in proof of allegations that despite the orders being served upon the 3<sup>rd</sup> Respondent, he invaded the suit property and took possession of the same by utilising it. I am in agreement with Odunga J (as he then was) in [\*Alfred Mutua v Boniface Mwangi\*](#) [2022] eKLR held that: -

“22. In my view, considering the seriousness with which the Court takes contempt of court proceedings, every stage of the hearing must be expressly clear to the Defendant and any ambiguity must be resolved in favour of the Defendant since such proceedings are quasi-criminal in nature, otherwise, a benefit of doubt would inure to the benefit of the Defendant.”

40 The court is inclined to giving the 3<sup>rd</sup> Respondent a benefit of doubt. The 3<sup>rd</sup> Respondent might get off the hook this time round for failure by the Plaintiff in proving that the trespassers were the 3<sup>rd</sup> Respondent's agents, however the same will not be without a stern warning that court orders



and directions ought to be strictly adhered to, followed and given the due respect deserved as blatant disregard and abuse of court orders leads not only to occurrence of injustices and abuse of the judicial system but also lawlessness as witnessed by the events of 9/11/2023. I am guided by the dictum in *Nthabiseng Phoko v Ekurhuleni Metropolitan Municipality & another* CCT 19/11(75/2015). Nkabinde, j observed that: -

“The rule of law, a foundational value of the *constitution*, requires that the dignity and authority of the courts be upheld. This is crucial, as the capacity of courts to carry out their functions depends upon it. As the *constitution* commands, orders and decisions issued by a court bind all persons to whom and organs of state to which they apply, and no person or organ of state may interfere in any matter, with the functioning of the courts. It follows from this that disobedience towards courts orders or decisions risks rendering our courts impotent and judicial authority a mere mockery. The effectiveness of court orders or decisions is substantially determined by the assurance that they will be enforced.”

41 Consequently, the court issues orders as follows; -

1. That Pending the hearing and determination of this suit, this Honourable court does issue a temporary injunction restraining the 3rd Defendants whether by themselves, his employees, agents and any representatives whatsoever from trespassing, encroaching remaining on the leased suit property or in any other manner howsoever from dealing with all that property comprised in Land Reference No 19128[CR-45368] within Taita Kwale Area.
2. The OCS Kinango Police Station to ensure compliance with the order [1] herein above.
3. The application dated 28/11/2023 is hereby dismissed.
4. Each party to bear its own costs.

Orders accordingly.

**RULING DATED SIGNED AND DELIVERED THIS 24<sup>TH</sup> DAY OF JULY 2024.**

.....

**A.E DENA**

**JUDGE**

Mr. Akbar for the Applicant

Ms. Buluma Holding brief for Kibet for 2<sup>nd</sup> Interested Party

Ms. Okoth for 3rd Defendant

Ms. Asmaa Maftah – Court Assistant

