



**Al-Busaidy (Suing in his capacity as Administrator to the Estate of Khola Binti Mohamed Bin Seif and Azzah Binti Mohamed Ben Seit) v Mnazi Moja Estates Limited (Environment & Land Miscellaneous Case E037 of 2024) [2024] KEELC 6120 (KLR) (26 September 2024) (Ruling)**

Neutral citation: [2024] KEELC 6120 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MOMBASA**  
**ENVIRONMENT & LAND MISCELLANEOUS CASE E037 OF 2024**  
**NA MATHEKA, J**  
**SEPTEMBER 26, 2024**

**BETWEEN**

**SAIF SAID SAIF AL-BUSAIDY ..... EXPARTE APPLICANT**  
**SUING IN HIS CAPACITY AS ADMINISTRATOR TO THE ESTATE OF**  
**KHOLA BINTI MOHAMED BIN SEIF AND AZZAH BINTI MOHAMED BEN**  
**SEIT**

**AND**

**MNAZI MOJA ESTATES LIMITED ..... RESPONDENT**

**RULING**

1. The application is dated 24<sup>th</sup> June 2024 and is brought under Order 9 Rules 1&2 of the [Civil Procedure Rules 2010](#), Sections 1B and 3A of the [Civil Procedure Act](#) seeking the following orders;
  1. That this Application be certified as urgent and be heard *exparte*.
  2. That this Honorable court be pleased to approve the appointment of Adam Jimmy Opoka as the legal attorney for Saif Said Saif Al-Busaidy, the registered owner of Mombasa/Block406, 407, 408, 409, 410, 411, 412, 414, 415, 416, 449, 450 original number Plot Mombasa/BlockXXW58, for purposes of instituting a suit for eviction against Mnazi Moja Estates Limited
  3. Costs of this application.
2. It is based upon the grounds that the Applicant is byway of succession the legally registered owner of all that the property known as Mombasa/BlockXX1/405, 406, 407, 408, 409, 410, 411, 412, 414, 415, 416, 449, 450 original number Plot Mombasa/Block XXI/58, situate within the Mombasa Town. The said property was leased to the Respondent for 99 years by an indenture dated the 22<sup>nd</sup> September 1952.



The said indenture has been breached by the Respondent and/or its assignees however they persist in their occupation of the property to the Applicants' detriment hence necessitating the commencement of eviction proceedings. The Applicant who is desirous of prosecuting the matter and taking back possession of the suit plots is presently in Oman and therefore acutely aware of the difficulty that may arise in securing their regular court attendance hence has appointed Adam Jimmy Opoka as his attorney thereof.

3. This court has considered the application which is *ex parte*. I have perused the annexed documentation and find a duly executed power of attorney marked AJO-1. A copy of the grant of letters of administration to the estates of Azzah Binti Mohammed and Khola Binti Mohamed Bin Seif marked AJO-2. A copy of the indenture marked AJO-3 and copies of the title deeds in the name of the applicants have also been attached. I find that this application is merited and I grant it with no orders as to costs.

It is so ordered.

**DELIVERED, DATED AND SIGNED AT MOMBASA THIS 26TH DAY OF SEPTEMBER 2024.**

**N.A. MATHEKA**

**JUDGE**

