



REPUBLIC OF KENYA



Beba Freight Company Limited v Manji & 3 others (Environment & Land Case E264 of 2024) [2024] KEELC 13365 (KLR) (22 November 2024) (Ruling)

Neutral citation: [2024] KEELC 13365 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E264 OF 2024
LN MBUGUA, J
NOVEMBER 22, 2024**

BETWEEN

BEBA FREIGHT COMPANY LIMITED PLAINTIFF

AND

BHARAT RAMJI MANJI 1ST DEFENDANT

YOUNG MOON CHOI 2ND DEFENDANT

LANDMARK FREIGHT SERVICES LIMITED 3RD DEFENDANT

LAND REGISTRAR OF TITLE, NAIROBI 4TH DEFENDANT

RULING

1. On 6.11.2024 the court gave directions for the parties to file submissions in respect of the application dated 2.7.2024 and the matter was given a mention date for 13.2.2025. The applicant however sought for interim orders contending that the application was filed under a certificate of urgency, that the applicant has demonstrated that they are the owners of the suit property and that the property stands to be wasted. The Respondents have opposed issuance of any orders at this stage.
2. I find that when the application dated 2.7.2024 was presented to the court for the very first time on 3.7.2024, the court must have looked at the said application and did not certify the same as urgent. On the claim that the applicants are the owners of the suit property, I find that the issue of ownership is contested and cannot be dealt with at this stage.



3. Finally, the court has interrogated the orders sought in the application vis a vis the orders sought in the plaint. One of the final prayers sought in the plaint dated 2.7.2024 (prayer c) reads as follows;

“An order of eviction of the Defendants whether by themselves, their agents and/or servants or any other person claiming under or through them from Plaintiff property known as Land Reference Number 21068.”

4. It follows that issuance of the orders sought in the application restraining the defendants from entering, trespassing or remaining in the suit property would in essence amount to issuance of some of the major reliefs sought in the plaint before the main trial and even before the application itself is heard. See Daniel Atibu Jasimba V Ainea Sandanyi Magana [2013] eKLR.

5. In the circumstances, the court declines to grant any orders at this stage.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22ND DAY OF NOVEMBER 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

Nyangoro, Oketch, Aencha and Okango Mogeni SC for Plaintiff Applicants

Mrs. Amandi holding brief for Eunice Lumalos for 1st and 2nd Defendants

Allan Kamau for 4th Defendant

Court Assistant: Vena

