



Sendi & 2 others v Macheru & another (Environmental and Land Originating Summons 566 of 2017) [2024] KEELC 14230 (KLR) (19 November 2024) (Ruling)

Neutral citation: [2024] KEELC 14230 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS 566 OF 2017
GMA ONGONDO, J
NOVEMBER 19, 2024**

BETWEEN

ITEMBE SENDI APPELLANT

AND

PAUL MARWA ITEMBE 1ST APPLICANT

NKIRU MARWA ITEMBE 2ND APPLICANT

AND

ROBI MWITA MACHERA 1ST RESPONDENT

SOFIA MOGOSI GIBOMA 2ND RESPONDENT

RULING

1. This ruling is in respect of order number (iii) sought in the application by way of a Notice of motion 28th May 2024 and the order reads;

‘That there be a stay of execution of the decree touching on LR No. Bukira/ Buhiringera/472, 473, 469 and 915(The suit parcels of land) and all consequential orders emanating from the decree pending the hearing and determination of this application inter partes.’

2. Mr B Singei learned counsel for the applicant urged the court to grant the aforementioned prayer, in the interim, to preserve the suit parcels of land awaiting typed proceedings for the disposal of the entire application.
3. Mr Achola learned counsel for the respondent/plaintiff opposed the application. He stated that the stay order sought is the subject of the respondent’s application dated 2nd June 2024.



4. The applicant's submissions dated 30th July 2014 are in support the application.
5. The plaintiff/respondents' submissions dated 11th September 2024 reinforce opposition to the application.
6. So, is there merit in order number (iii) sought in the application?
7. Notably, stay of execution of the court's decree dated 27th April 2023 is order number (iv) sought in the application.
8. The application is yet to be determined awaiting typed proceedings which are form the subject of prayer number (v) in the application.
9. This court is mandated under section 13 (7) (a) of the ELC Act 2015 (2011) to grant interim preservation orders. Prayer number (iii) in the application is such an order.
10. In the circumstances, the application is merited.
11. In the result, prayer number (iii) in the application, is hereby allowed accordingly.
12. It is so ordered.

DATED AND DELIVERED AT MIGORI THIS 19TH DAY OF NOVEMBER 2024

G M A ONGONDO

JUDGE

Present;

Mr Achola for the plaintiffs/respondents

Mr Singei learned counsel for the defendants/applicants

Tom Maurice, court assistant

