



Okuku & another v Kotein Limited & another; Kotein Limited & another v Ngigi & 7 others (Counterclaim) (Environment & Land Case E336 of 2024) [2024] KEELC 13516 (KLR) (7 November 2024) (Ruling)

Neutral citation: [2024] KEELC 13516 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E336 OF 2024**

JO MBOYA, J

NOVEMBER 7, 2024

**ROBERT HUGHES OKUKU.....1ST PLAINTIFF
REGINA WERE SHIUNDU2ND PLAINTIFF**

AND

**KOTEIN LIMITED.....1ST DEFENDANT
MOHAMED JAMA.....2ND DEFENDANT**

COUNTER-CLAIM

BETWEEN

**KOTEIN LIMITED 1ST PLAINTIFF
MOHAMED JAMA 2ND PLAINTIFF**

AND

**MOHAMED NJENGA NGIGI 1ST DEFENDANT
NANCY WANGARI MUCHIRI 2ND DEFENDANT
ROBERT HUGHES OKUKU 3RD DEFENDANT
REGINA WERE SHIUNDU 4TH DEFENDANT
THE LAND REGISTRAR, NGONG 5TH DEFENDANT
THE NATIONAL LAND COMMISSION 6TH DEFENDANT
HON. ATTORNEY GENERAL OF KENYA 7TH DEFENDANT
THE DIRECTOR OF SURVEY OF KENYA 8TH DEFENDANT**



RULING

Introduction And Background:

1. The Plaintiffs/Applicants herein [who are husband and wife, respectively], have approached the court vide Notice of Motion Application dated 9th August 2024 brought pursuant to the provisions of Sections 13[1] [2] and [7] of the Environment and Land Court Act, Sections 25 and 26 of the Land Registration Act and Article 40 and 64 of the Constitution 2010 and in respect of which the Applicants have sought for the following reliefs[verbatim]:
 - i.Spent.
 - ii.Spent.
 - iii. Pending the hearing and the final determination of this suit , an Order of Interlocutory injunction wholly restraining the Defendants , their agents and employees or any other person acting on their directions from ever entering , accessing, dealing in, trespassing into, invading and breaking into and or while thereon evicting the Plaintiff's workers or demolishing the buildings , gates and perimeter walls or in any other way interfering with the Plaintiff's quiet possession of the suit property known as Title No. Ngong/Ngong/99296.
 - iv. The Officer commanding Ngong Police Station to ensure Compliance with the Orders of this Honourable Court.
 - v. The Costs of the Application.
2. The subject application is premised on the grounds enumerated in the body thereof. In addition, the application is supported by the affidavit of Robert Hughes Okuku [1st Applicant] sworn on 9th August 2024. Furthermore, the Deponent has also attached various Documents to the Supporting Affidavit, including a copy of the Sale agreement and the Certificate of Title in respect of the Suit Property.
3. Upon being served with the subject application, the Defendants/Respondents filed a replying affidavit sworn by the 2nd Defendant/Respondent, namely, Mohamed Jama and in respect of which same has contended that L.R No. Ngong/Ngong 25328 [hereinafter referred to as the original property] belongs to and is registered in the name of the 1st Defendant/Respondent.
4. The application beforehand came up for directions on 29th September 2024 whereupon the advocates for the respective parties agreed to canvass and ventilate the application by way of written submissions. In this regard, the court thereafter circumscribed the timelines for the filing and exchange of the written submissions.
5. First forward, the Plaintiffs/Applicants filed written submissions dated 30th September 2024 whereas the Defendant/Respondent filed written submissions dated 22nd October 2024. For coherence, the two [2] sets of written submissions form part of the record of the court.

Parties' Submissions:

A. Applicants' Submissions:

6. The Applicants herein filed written submission dated 30th September 2024 and wherein same [Applicants] have adopted the grounds contained in the body of the application and also reiterated the



contents of the supporting affidavit. In addition, the Applicants have also highlighted the contents of the various annexures attached to the supporting affidavit.

7. Furthermore, learned counsel for the Applicant has thereafter canvassed and highlighted three [3] salient issues for consideration and determination by the court. Firstly, learned counsel for the Applicants has submitted that the Applicants herein entered into a land sale agreement with one Mohamed Njenga Ngigi who was the registered owner of L.R No Ngong/Ngong/25328. To this end, learned counsel has cited and referenced the sale agreement dated 12th April 2021.
8. Additionally, learned counsel for the Applicants has submitted that following the entry into and execution of the sale agreement under reference, the vendor of the parcel of land in question proceeded to and caused L.R No Ngong/Ngong/25328 to be sub-divided into various portions culminating into the creation of inter-alia the suit property.
9. Counsel for the Applicant has further submitted that the suit property was thereafter transferred and registered in the names of the Plaintiffs/Applicants. To this end, counsel has cited and referenced the title deed in respect of the suit property and which was issued on 2nd December 2021.
10. Arising from the foregoing, learned counsel for the Applicants has therefore submitted that the Applicants are the lawful and registered proprietor[s] of the suit property and thus same are entitled to exclusive possession thereof. In any event, learned counsel for the Applicants has submitted that the registration of the suit property in favour of the Applicants confers upon the Applicants proprietary interests thereto.
11. To this end, learned counsel for the Applicants has cited and referenced the holding in the case of Marcus Mutua Muluvi & Another versus Philip Tunui & Another [2012] eKLR, where the court held that the registration of land in favour of a designated person constitutes a demonstration of a prima facie case.
12. Other than the foregoing, learned counsel for the Applicants has also submitted that by virtue of being the registered owners of the suit property, the Applicants herein have effectively demonstrated that same have lawful interests to the suit property and that any action that is intended to impeach their interests shall create the existence of a prima facie case with a probability of success. Simply put, it is the submissions of learned counsel that the Applicants herein have established and demonstrated a prima facie case with a probability of success.
13. To buttress the foregoing submission[s], learned counsel for the Applicants has cited and referenced the decisions in Mrao Ltd v First American Bank of Kenya & Others [2003] eKLR, Mbuthia v Jimba Credit Corporation Ltd & Another [1988] eKLR, Edwin Kamau Muniu v Barckley Bank of Kenya [UR] and Muna v Muchiri [Environment & Land Case E010 of 2022] [2023] KEELC 19137 [KLR], respectively.
14. Secondly, learned counsel for the Applicants has submitted that upon the purchase and acquisition of the suit property, the Applicants entered upon the suit property and thereafter established their matrimonial homestead thereon.
15. Furthermore, learned counsel for the Applicants has further submitted that the Applicants herein have been residing on the suit property and had carried out substantial developments thereon. In any event, learned counsel has contended that the existence of the Plaintiffs' homestead and the substantial development[s] on the suit property was highlighted at the foot of the Respondent's advocates letter dated 27th February 2024.



16. Owing to the fact that the Applicants have constructed and established a homestead on the suit property, it has been contended that a failure to grant the orders of temporary injunction would thus expose the Applicants to eviction and demolition of their homestead and the developments standing thereon. In this regard, learned counsel for the Applicants has therefore submitted that such an eventuality shall occasion irreparable loss to the Applicants.
17. In support of the submissions that the Applicants herein shall be exposed to suffer irreparable loss, learned counsel for the Applicants has cited and referenced the decision[s] in the case of *Nguruman Ltd v Jan Bonde Nielsen & 2 Others* [2014] eKLR and *Tritex Industries Ltd & 3 Others v National Housing Corporation & Another* [2014] eKLR, respectively.
18. Thirdly, learned counsel for the Applicants has submitted that if the matter were to be determined on the basis of balance of convenience, the balance of convenience tilts in favour of the Applicants. In this regard, it has been contended that unless the orders of temporary injunction are granted, the Applicants shall bear the greatest inconvenience in comparison to the prejudice/inconvenience to be suffered by the Respondents, if any.
19. To this end, learned counsel for the Applicants has cited and referenced the decisions in *Pius Kipchirchir Kogo v Franc Kimeli Tenai* [2018] eKLR and *Amir Suleiman v Amboseli Resort Ltd* [2004] eKLR, respectively.
20. Arising from the foregoing, learned counsel for the Applicants has therefore contended that the Applicants have established and demonstrated the requisite ingredients that underpin the grant of an order of temporary injunction. In this regard, the Applicants have implored the court to grant the orders sought.

b. Respondents Submissions:

21. The Respondents has filed written submissions dated 22nd October 2024; and in respect of which the Respondents have canvassed and highlighted two[2] salient issues for consideration and determination by the court.
22. First and foremost, learned counsel for the Respondents has submitted that the 1st Respondent herein is the lawful and legitimate owner of L.R No. Ngong/Ngong/25328. Furthermore, learned counsel for the Respondents has submitted that the 1st Defendant/Respondent has never caused the said property to be sub-divided or at all.
23. On the other hand, learned counsel for the Respondents has also submitted that the 1st Defendant/Respondent has also never sold any portion of the said land to the Plaintiff/Applicants herein.
24. Owing to the fact that the 1st Defendant/Respondent has never sold any portion of L.R No. Ngong/Ngong/25328 to the Plaintiffs/Applicants herein, learned counsel for the Respondents has therefore submitted that the certificate of title that is being espoused and relied upon by the Plaintiffs/Applicants is therefore illegal and unlawful.
25. Additionally, learned counsel for the Respondents has submitted that where one, the Applicants not excepted, have acquired a certificate of title through irregular, illegal and unlawful means, then the holder of such a title does not accrue any legal rights or at all. In any event, learned counsel for the Respondent has submitted that it behoves the Applicants herein to justify the root of their title to [sic] the suit property.



26. Arising from the foregoing submissions, learned counsel for the Respondents has therefore posited that the Applicants herein have neither demonstrated nor established a prima facie case with a probability of success.
27. To support the submissions that an illegally acquired title does not confer any lawful rights to the holder thereof, learned counsel for the Respondents has cited and referenced various decisions including *Munyu Maina v Hiram Gathiha Maina* [2013] eKLR and *Alice Chemutati Too v Nickson Kipkurui Korir & 2 Others* [2015] eKLR.
28. Secondly, learned counsel for the Respondent has submitted that the Applicants herein have not established and/or demonstrated that same [Applicants] shall suffer irreparable loss or at all. In the absence of clear evidence of irreparable loss, learned counsel for the Respondents has submitted that no order of temporary injunction ought to issue.
29. At any rate, learned counsel for the Respondent has submitted that whatever loss that the Applicants may suffer is not only quantifiable but compensable in monetary terms. In this regard, it has been posited that the 1st Defendant would be in a position to make such compensation.
30. To buttress the submissions that the Applicants herein shall not suffer any irreparable loss, learned counsel for the Respondents has cited and referenced various decisions including *Paul Gitonga Wanjau v Gathuthi Tea Factory and 2 Others* [2016] eKLR; *Issac Musyoki Komoni v Sammy Kaumbulu Mbuvi* [2022] eKLR; *Kenleb Cons Ltd v New Gatitu Service Station Ltd & Another* [1990] eKLR and *Njenga v Njenga* [1991] eKLR, respectively.
31. Finally, learned counsel for the Respondent has submitted that to the extent that the 1st Defendant is the registered owner of L.R No. Ngong/Ngong/25328, same [1st Respondent] shall be disposed to suffer grater inconvenience and prejudice, if the orders of temporary injunction are granted.
32. Owing to the foregoing, learned counsel for the Respondents has therefore submitted that the balance of convenience tilts in favour of not granting the orders of temporary injunction.
33. In support of the submissions pertaining to balance of convenience, learned counsel for the Respondents has cited and referenced inter-alia the case of *Pius Kipchirchir Kogo v Franc Kimeli Tenai* [2018] eKLR; *Showind Industries Ltd v Guardian Bank Ltd* [2002] eKLR and *Paul Gitonga Wanjao v Gatitu* [2016] eKLR, respectively.
34. In a nutshell, learned counsel for the Respondents has contended that the Applicants have neither demonstrated nor established the requisite ingredients to warrant the grant of the orders of temporary injunction. In this regard, the court has been invited to find and hold that the Application is devoid of merits and thereafter to dismiss the application with costs.

Issues For Determination:

35. Having reviewed the application beforehand and the response thereto and upon taking into account the written submissions filed on behalf of the parties, the following issues do emerge and are thus worthy for determination;
 - i. Whether the Applicants have demonstrated the existence of a prima facie case with a probability of success.
 - ii. Whether the Applicants shall be disposed to suffer irreparable loss unless the orders of temporary injunction are granted.



- iii. What orders ought to be granted, if any.

Analysis And Determination:

Issue Number 1 Whether the Applicants have demonstrated the existence of a prima facie case with a probability of success.

36. The application beforehand seeks for the issuance of an order of temporary injunction pending the hearing and determination of the dispute beforehand.
37. Instructively, the Applicants contend that same [Applicants] are the registered owner/proprietors of L.R No. Ngong/Ngong/99296 [the suit property] and that unless an order of temporary injunction is granted by the court, same [Applicants] shall be disposed to suffer eviction from the suit property.
38. To the extent that the application beforehand touches on and concerns an order of temporary injunction, it thus behoves the Applicants to first and foremost establish the existence of a prima facie case with a probability of success. For good measure, proof or demonstration of a prima facie case constitute [s] a prelude/precursor to partaking of an order of temporary injunction.
39. Put differently, unless and until an Applicant demonstrates the existence of a prima facie case with a probability of success, such an Applicant cannot be allowed to venture forward and endeavour to demonstrate the existence of irreparable loss. In this regard, there is no gainsaying that a prima facie case does act as the launchpad, or better still, the stepping stone in pursuit of an order of temporary injunction.
40. Given the significance of a prima facie case in an application for temporary injunction, a question does arise as to what then constitutes a prima facie case.
41. Suffice it to point out that what constitutes a prima facie case is not a new issue. Notably, the meaning and tenor of a prima facie case with a probability of success has since been elaborated upon in a number of decisions. Simply put, the meaning of a prima facie case is settled.
42. In the case of Mrao Ltd v First American Bank of Kenya Ltd & 2 others (Civil Appeal 39 of 2002) [2003] KECA 175 (KLR) (7 March 2003) (Judgment), the Court of Appeal highlighted the meaning of a prima facie case.
43. For good measure, the court stated thus:
 4. 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.
44. Furthermore, what constitutes a prima facie case was re-visited by the Court of Appeal in the case of Nguruman Limited v Jan Bonde Nielson and Others [2014] eKLR.
45. For ease of appreciation, the honourable court of appeal stated as hereunder;

“Prima facie” is a Latin phrase for “at first sight”, whose legal meaning and application has been the subject of varying interpretation by courts in many jurisdictions. Phrases like “a serious question to be tried”, “a question which is not vexatious or frivolous”, “an arguable case” have been adopted to describe the burden imposed on the applicant to demonstrate



the existence of prima facie case. The leading English House of Lords case of the American Cyanamid Co. Ethicon Ltd [1975] AC 396 is a case in point. The meaning of “prima facie case”, in our view, should not be too much stretched to land in the loss of real purpose. The standard of prima facie case has been applied in this jurisdiction for over 55 years, at least in criminal cases, since the decision in Ramanlal Trambaklal Hatt V. Republic [1957] E.A. 332.

Recently, this court in Mrao Ltd. V. First American Bank of Kenya Ltd & 2 others [2003] KLR 125 fashioned a definition for “prima facie case” in civil cases in the following words:

“In civil cases, a prima facie case is a case in 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 to call for an explanation or rebuttal from the latter. A prima facie case is more than an arguable case.

It is not sufficient to raise issues but the evidence must show an infringement of a right, and the probability of success of the applicant’s case upon trial. That is clearly a standard, which is higher than an arguable case.”

We adopt that definition save to add the following conditions by way of explaining it. The party on whom the burden of proving a prima facie case lies must show a clear and unmistakable right to be protected which is directly threatened by an act sought to be restrained, the invasion of the right has to be material and substantive and there must be an urgent necessity to prevent the irreparable damage that may result from the invasion.

We reiterate that in considering whether or not a prima facie case has been established, the court does not hold a mini trial and must not examine the merits of the case closely.

46. Having appraised myself of what constitutes a prima facie case, it is now apposite to revert to the instant matter and to discern whether the Applicants have established a prima facie case with probability of success.
47. To start with, the Applicants herein have contended that same entered into a valid land sale agreement with one Muhamed Njenga Ngige over and in respect of a portion of L.R No. Ngong/Ngong/25328. Furthermore, the Applicants have contended that upon entry into and execution of the said sale agreement, the property in question was sub-divided culminating into the creation of inter-alia the suit property.
48. Additionally, the Applicants have averred that the suit property was thereafter transferred and registered in their [Applicants] name. In this regard, the Applicants posit that same are the lawful and legitimate owners of the suit property.
49. By virtue of being the owners of the suit property, the Applicants have therefore contended that same [Applicants] have acquired lawful and legitimate rights thereto. To this end, the Applicants seeks to invoke and rely on the provisions of Sections 24 and 25 of the [Land Registration Act, 2012](#).
50. On the other hand, the Respondents contends that L.R No. Ngong/Ngong/25328, a portion of which was being sold to the Applicants lawfully belongs to and is registered in the name of the 1st Respondent. Furthermore, it has been contended that the 1st Respondent has never caused her property to be sub-divided, let alone sold to anyone.
51. Additionally, the Respondents have contended that the Applicant’s certificate of title which is said to have arisen from the sub-division of L.R No Ngong/Ngong/25328, is therefore an illegality and hence the Applicants have no lawful rights thereto.



52. Even though the Respondents have impugned the legality or otherwise of the Applicant's certificate of title, it suffices to state and observe at this juncture that the court is not called upon to undertake minute interrogation of the process leading to the creation of the Applicants title. It suffices to examine same on a prima facie basis and to see whether the titles bear the requisite seal from the designated land registry.
53. Put differently, a court handling an interlocutory application, like the one beforehand, is not called upon to undertake a mini- trial in an endeavour to resolve with finality the factual controversy. For good measure, the determination and resolution of the factual and legal issues with finality is the preserve of the trial court after undertaking a plenary hearing and not otherwise.
54. To this end, it is worthy to cite and reiterate the holding in the case of *Mbuthia v Jimba Credit Finance Corporation & another* (1988) eKLR thus:
- “The correct approach in dealing with an application for the injunction is not to decide the issues of fact, but rather to weigh up the relevant strength of each side's propositions. There is no doubt in my mind that the learned Judge went far beyond his proper duties, and has made final findings of fact on disputed affidavits.”
55. Arising from the foregoing, even though the Respondents have invited the court to interrogate the circumstances leading to the issuance of the certificate of title in favour of the Applicants and to find that the Applicants title was procured illegally, I beg to state that such an endeavour cannot be undertaken at this interlocutory stage.
56. Suffice it to state that I hear the Respondent's contention. However, no matter how strong the Respondent's contention is, such contention must await the opportune time when same will be tested in the conventional manner through cross examination.
57. For now, it suffices to underscore that the Applicants have a certificate of title in respect of the suit property and furthermore, they [Applicants] have been in occupation of the suit property. To this end, the certificate of title by the Applicants and their occupation of the suit property cannot swept aside by sidewind.
58. Consequently and in my humble view, the fact that the Applicants hold a certificate of title bearing the seal of the government of Kenya founds sufficient basis to warrant a finding that same [Applicants] have a prima facie case.
59. Without belabouring the point, my answer to issue number one is to the effect that the Applicants have indeed established and demonstrated a prima facie case with probability of success.

Issue Number 2 Whether the Applicants shall be disposed to suffer irreparable loss unless the orders of temporary injunction are granted.

60. Having established and demonstrated the existence of a prima facie case, the Applicants herein are next obligated to demonstrate that same shall suffer irreparable loss unless the orders of temporary injunction are granted.
61. Suffice it to point out that irreparable loss is such loss that is not easily compensable in monetary terms. Furthermore, irreparable loss constitutes the cornerstone to the grant/issuance of an order of temporary injunction. Irreparable loss is therefore the pivot that anchors an order of temporary injunction. In this regard, failure to demonstrate irreparable loss negates an application for temporary injunction.



62. To this end, it is instructive to take cognizance of the holding in the case of Kenya Commercial Finance Co. Ltd V. Afraha Education Society [2001] Vol. 1 EA 86, where the court of appeal stated and held as hereunder;

If the applicant establishes a prima facie case that alone is not sufficient basis to grant an interlocutory injunction, the court must further be satisfied that the injury the respondent will suffer, in the event the injunction is not granted, will be irreparable. In other words, if damages recoverable in law is an adequate remedy and the respondent is capable of paying, no interlocutory order of injunction should normally be granted, however strong the applicant's claim may appear at that stage. If prima facie case is not established, then irreparable injury and balance of convenience need no consideration. The existence of a prima facie case does not permit "leap-frogging" by the applicant to injunction directly without crossing the other hurdles in between.

63. The importance of irreparable loss in an application for temporary injunction was equally highlighted and underscored in the case of Vivo Energy Kenya Limited v Maloba Petrol Station Limited & 3 others [2015] eKLR, where the Court of Appeal stated and held thus:

Giella V Cassman Brown & Co Ltd (supra) stipulates that an interlocutory injunction will not normally be granted unless the applicant might otherwise suffer irreparable injury, which would not be adequately compensated by an award of damages. In NGuruman Limited V. Jan Bonde Nielsen & 2 Others (supra), this Court stated as follows on irreparable injury or damage:

"On the second factor, that the applicant must establish that he "might otherwise" suffer irreparable injury which cannot be adequately remedied by damages in the absence of an injunction, is a threshold requirement and the burden is on the applicant to demonstrate, prima facie, the nature and extent of the injury. Speculative injury will not do; there must be more than an unfounded fear or apprehension on the part of the applicant. The equitable remedy of temporary injunction is issued solely to prevent grave and irreparable injury; that is injury that is actual, substantial and demonstrable; injury that cannot "adequately" be compensated by an award of damages. An injury is irreparable where there is no standard by which their amount can be measured with reasonable accuracy or the injury or harm is such a nature that monetary compensation, of whatever amount, will never be adequate remedy."

64. Flowing from the foregoing decisions, it is now apposite to discern whether the Applicants herein shall be disposed to suffer irreparable loss unless the orders of temporary injunction are granted.
65. In an endeavour to discern whether irreparable loss will arise, it is worth recalling that the Applicants herein had indeed established their marital homestead on the suit property. Furthermore, it is also instructive to note that the Applicants have been residing on the suit property since the year 2021.
66. To the extent that the Applicants have been residing on the suit property since 2021 and have developed their marital homestead thereon, there is no gainsaying that an eviction or demolition of their [Applicants'] matrimonial homestead, during the pendency of the suit herein will occasion irreparable loss.
67. On the other hand, it is not lost on this court that if the Applicant's homestead and the substantive developments standing on the suit property were to be demolished during the pendency of this suit, then the Applicants will be rendered destitute. Furthermore, the Applicant's rights to adequate and accessible housing will be infringed upon and violated. [See Article 43[1] [b] of *the Constitution* 2010].



68. For the sake of clarity, I am not saying that the Applicants cannot be evicted from the suit property. However, I am underscoring that such action, if any, can only be taken after plenary hearing and upon determination of the merits of the cases for the respective disputants [parties].
69. Before then, any adverse actions against the Applicants herein shall visit upon the Applicants irreparable loss. This is what must be prevented during the pendency of the suit and in an endeavour to preserve the substratum of the suit.

Issue Number 3 What orders ought to be granted, if any?

70. I have come to the conclusion that the Applicants herein have ably established and demonstrated the existence of a prima facie case. Furthermore, I have also found and held that the Applicants shall be disposed to suffer irreparable loss, unless the orders of temporary injunction are granted.
71. From the foregoing, there is no gainsaying that I am minded to grant the orders of temporary injunction. However, there is a slight perspective that comes into the picture and which merits consideration.
72. The perspective herein relates to the claim by the Defendants/Respondents and in particular, the 1st Respondent that same holds the title to and in respect of L.R No. Ngong/Ngong/25328.
73. To the extent that the 1st Defendant/Respondent is contending that same owns the said Ngong/Ngong/25328 and coupled with fact that the suit property is said to be a sub-division arising therefrom, there is need to secure the suit property.
74. Consequently and in this regard, even though the court is minded to grant the orders of temporary injunction, there shall be a rider that the Applicants herein shall not dispose of, sell, charge and/or otherwise alienate the suit property during the pendency of the suit.
75. To my mind, such a rider would preserve and conserve the suit property so that at the tail end, neither the Applicants nor the 1st Defendant/Respondent, is subjected to grave injustice or driven away from the seat of justice.

Final Disposition:

76. Flowing from the discourse, [duly articulated in the body of the ruling], it must have become crystal clear that the Applicants herein have ably demonstrated that same [Applicants] are entitled to the orders of temporary injunction.
77. Consequently, and in the premises, the final orders of the court are as hereunder;
 - i. The Application dated 9th August 2024 be and is hereby allowed.
 - ii. Consequently, there be and is hereby granted an Order of Temporary injunction restraining the Defendants, their agents and employees or any other person acting on their directions from ever entering, accessing, dealing in, trespassing into, invading and breaking into and or while thereon evicting the Plaintiff's workers or demolishing the buildings, gates and perimeter walls or in any other way interfering with the Plaintiff's quiet possession of the suit property known as Title No. Ngong/ngong/99296, pending the hearing and determination of the Suit herein.
 - iii. However, the Plaintiffs/Applicants herein shall not sell, dispose of, charge and/or otherwise alienate the suit property during the pendency of the suit.
 - iv. Costs of the Application shall abide the outcome of the suit.



78. It is so Ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 7TH DAY OF NOVEMBER 2024

OGUTTU MBOYA,

JUDGE.

In the presence of:

Benson – court Assistant.

Mr. Aldrin Ojiambo for the Plaintiffs/Applicants.

Mr. Hassan Lakicha for the 1st and 2nd Defendants/Respondents.

N/A for 5th, 6th and 7th Defendants to the Counterclaim.

