



Delta Connections Ltd v Ndeche (Environment and Land Case Civil Suit E016 of 2019) [2024] KEELC 13953 (KLR) (17 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13953 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT AND LAND CASE CIVIL SUIT E016 OF 2019
FM NJOROGE, J
DECEMBER 17, 2024**

BETWEEN

DELTA CONNECTIONS LTD PETITIONER

AND

ALFRED MWARINGA NDECHE RESPONDENT

RULING

1. The preliminary objection subject matter of this ruling is dated 20/9/2024 raises the following issues:
 - a. Whether or not, the defendant's claim being grounded on adverse possession, the defendant can in law institute interlocutory applications that seek injunctive orders against the plaintiff or orders intended to punish the plaintiff or curtail the plaintiff's use of the said property, the plaintiff being as it were the registered owner of the said property;
 - b. Whether or not the plaintiff being in possession, occupation and use of the suit property can be curtailed or restricted from enjoying its proprietorship and ownership interest over the suit property.
2. The notice of preliminary objection was filed in response to the defendant's filing of an application dated 9/7/2024 seeking to find the plaintiff's agents in contempt of court for alleged breach of orders of 1/2/2024, and removal of all structures introduced into the suit premises by them after 1/2/2024.
3. The objection was disposed of by way of written submissions. the plaintiff filed submissions dated 7/10/2024. The defendant filed none. The preliminary objection dated 7/10/2024 is thus dismissed with costs for want of compliance with court orders on the objector's part.

RULING DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 17TH DAY OF DECEMBER 2024.

MWANGI NJOROGE



JUDGE, ELC, MALINDI

