



**Likizo Homes Housing Cooperative – Society Limited v Ibrahim;
Hassan (Applicant) (Environment & Land Case 829 of 2017)
[2024] KEELC 13716 (KLR) (11 December 2024) (Ruling)**

Neutral citation: [2024] KEELC 13716 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 829 OF 2017
MN GICHERU, J
DECEMBER 11, 2024**

BETWEEN

LIKIZO HOMES HOUSING COOPERATIVE – SOCIETY LIMITED PLAINTIFF

AND

ADAN MAALIM IBRAHIM DEFENDANT

AND

ABDIRASHID ADAN HASSAN APPLICANT

RULING

1. This ruling is on the notice of motion dated 4/7/2024. The motion which is under Order 40 rules 1 and 4, Order 51 rules 1, 3 and 4 of the [Civil Procedure Rules](#), Sections 1A, 1B, 3 and 3A of the [Civil Procedure Act](#) and all other enabling provisions of the law seeks two residual orders.
2. An injunction restraining the respondents, their servants, agents, employees, assignees or any other person claiming through them upon evicting the applicant from L.R. Saina Estate/C23A/Residential.
3. Status quo order.
2. The motion is based on ten grounds and is supported by an affidavit sworn by Abdirashid Adan Hassan. The gist of the motion is as follows. Firstly, the applicant and his family live in the suit premises. Secondly, on 3/7/2024, the plaintiffs and the defendant in the company of goons attacked the applicant’s family, tenants and the applicant destroying their property and assaulting them. Thirdly, the matter was reported at Kajiado Police Station. Fourthly, the applicant is in danger of being evicted from the suit land when he has a good case with high chances of success.

For the above and other reasons, he prays for the orders.



3. The motion is opposed by the 2nd plaintiff who has sworn a replying affidavit dated 14/10/2024 in which he replies as follows. Firstly, there are two similar applications dated 21/3/2024 and 25/3/2024 and the application is an abuse of the court process. Secondly, there is a consent judgment dated 29/11/2022 involving all the relevant parties in this suit. Thirdly, the applicant has filed two similar matters in the lower court and this application amounts to forum shopping. Finally, the applicant should file a separate suit because this one is concluded and the decree implemented.
4. I have carefully considered the motion in its entirety including the grounds, affidavits, annexures and the entire record. I find that the motion raises more questions than answers. The questions include the following.
 - i. When did the applicant occupy the suit land?
 - ii. Where has he been since the year 2017 when this suit was filed?
 - iii. What is the status of the related suits; i.e. Kajiado CM's Civil Case No. E009/2024 and Kajiado CM's ELC Case No. E32 of 2024?
 - iv. What does the applicant seek in this suit that he could not obtain in the related suits?
 - v. Is it proper to join this suit when there are other related suits in the Lower Court over the same subject matter?
 - vi. Has the applicant complied with Section 11 of the *Civil Procedure Act* which requires a party to file a suit in the court of the lowest grade competent to try it?
 - vii. Has the applicant complied with Order 4 rule 1 (1) (f) of the Civil Procedure Rules which forbids the filing of a multiple suits over the same subject matter and between the same parties?
5. While the above questions linger and without answers to them, the applicant cannot be said to have established a prima facie case with a probability of success to warrant the grant of the order of injunction that he seeks. For this reason, I find no merit in the motion dated 4/7/2024 which I dismiss with costs.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY 11TH DAY OF DECEMBER 2024.

M.N. GICHERU

JUDGE

