



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

Kiki Investment Ltd v Kanyamwi Trading Co Ltd & 3 others (Environment and Land Case Civil Suit E004 of 2020) [2023] KEELC 867 (KLR) (19 January 2023) (Ruling)

Neutral citation: [2023] KEELC 867 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE CIVIL SUIT E004 OF 2020**

**J OMANGE, J
JANUARY 19, 2023**

BETWEEN

KIKI INVESTMENT LTD PLAINTIFF

AND

KANYAMWI TRADING CO LTD 1ST DEFENDANT

DORIS NYAMBURA KARIUKI 2ND DEFENDANT

TERRY WANJIRU KARIUKI 3RD DEFENDANT

ESTHER MWIKALI KARIUKI 4TH DEFENDANT

RULING

1. The application dated November 18, 2022 prays for the following orders;
 - a. Spent.
 - b. Spent
 - c. That pending the hearing and determination of this suit, an order restraining the Directors of Kanyamwi Trading Co Ltd forthwith from reporting and or pursuing any complaint on this matter touching on this matter against George Ngure Kariuki or his company Kiki Investments at the Director of Criminal investigations or any other police station and or the Director of Criminal Investigations or any other police station or Police Officer forthwith from summoning, questioning, interrogating, arresting, detaining, intimidating and or otherwise in any manner harassing George Ngure Kariuki in regard to any matters arising out of and or connected with the proceedings herein and or in regard to transaction touching on LR No 6564/ 11 (IR no 199761.



2. The application is supported by the affidavit of the managing director of the applicant who has traced the history of the civil dispute between the parties herein. Given that this application is not about the civil dispute, I will not restate the averments herein. He concludes the affidavit by alleging that the defendants are now using the criminal process to illegally extort money from him.
3. The application is not opposed. The parties' submissions are not in the e filing system as the date of writing this ruling. The issue the court has to determine is whether the applicant has placed enough material for the court to issue the sought.
4. I have carefully considered the application and the affidavit of the applicants Managing Director on whom the burden lay to justify the orders sought. The affidavit is sorely lacking in material particulars. There is no indication of the dates when the applicant was summoned. There is no summons attached to the affidavit that would enable the court to determine whether summons if indeed there were any were made in respect to a complaint by the defendants and if it was over the same land which is subject matter of these proceedings.
5. I therefore find that the applicant has not sufficiently proved that it is entitled to the orders sought. However, I note that this is a matter in which the parties had previously indicated that they were willing to negotiate.
6. Article 159 the Constitution of Kenya commands the court to promote alternative forms of dispute resolution. Section 20 of the Environment and Land Court Act further provides a window for the court to promote amicable settlement of disputes. I find that in this case the interests of justice would be served by exploring this option. In the circumstances the court makes the following orders:-
 - a. The prayer to restrain the criminal investigation fails.
 - b. The matter is referred to court annexed mediation. In this regard, the Deputy Registrar is to appoint a mediator.
 - c. Each party to bear their own costs of the application.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 19TH DAY OF JANUARY 2023.

JUDY OMANGE

JUDGE

In the presence of: -

Mr. McRonal for the Plaintiff Applicant

Steve Musyoki Court Assistant

