



REPUBLIC OF KENYA



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

**Grewal & 3 others v Grewal & 2 others (Commercial Case E491 of 2023)
[2025] KEHC 3929 (KLR) (Commercial and Tax) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3929 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
COMMERCIAL AND TAX
COMMERCIAL CASE E491 OF 2023
AA VISRAM, J
MARCH 27, 2025**

BETWEEN

**JATINDER KAUR GREWAL 1ST PLAINTIFF
SATVINDER SINGH 2ND PLAINTIFF
HARDEEP KAUR GREWAL 3RD PLAINTIFF
DANBAT LIMITED 4TH PLAINTIFF**

AND

**RAVINDER SINGH GREWAL 1ST DEFENDANT
MANDEEP KAUR GREWAL 2ND DEFENDANT
RIO INVESTMENTS LIMITED 3RD DEFENDANT**

RULING

Introduction and Background

1. Before the Court for determination is the Defendants' Notice of Preliminary Objection dated 19th October, 2023 ("the Objection") based on the grounds that the Plaintiffs lack locus standi being in this suit and that this Division of the High Court has no jurisdiction to determine this suit, as the same is a probate dispute involving succession and distribution of the Estate of the late Tejwant Singh Grewal.
2. The Objection was disposed of by way of written submissions which are on record, and I will be making relevant references to them in my analysis and determination below.



Analysis and Determination

3. The main issue falling for determination is whether the Objection is merited and whether the suit should be struck out for want of locus standi and, or, jurisdiction? The parties agree that for a Preliminary Objection to succeed, the same must be capable of disposing of the suit, it must raise a pure point of law, and it cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion (See *Mukisa Biscuit Manufacturing Co. Ltd v. West End Distributors Ltd.* (1969) EA). From the outset, a review of the Objection and the parties' submissions, it is clear that both parties are inviting the Court into the arena of evidence and facts which are disputed, and cannot be the basis of sustaining a Preliminary Objection.
4. The Defendants have urged this Court to review the Plaintiffs' documents and determine whether the 1st Plaintiff is a shareholder of the 4th Plaintiff Company; and to determine whether the Plaintiffs are the owners of property LR No. 209/21576; and to determine whether they have capacity to bring a suit to protect this property. Such disputed facts and reference to evidence and material on record cannot be the basis of allowing a Preliminary Objection because the Objection ceases to be on a pure point of law. I therefore find that the above issues fail to muster the test.
5. As regards the question of jurisdiction, and which court is the appropriate forum to canvass the dispute, the Court of Appeal, in *Pacific Frontier Seas Ltd v Kyengo & another* (Civil Appeal 32 of 2018) [2022] KECA 396 (KLR) stated as follows:-
 40. In our view the above judgments of this Court and the decisions of the High Court in *Re Estate of Alice Mumbua Mutua* (supra), *Patrick Kibathi & 2 Others v. Charles Kigwe Gathecha* (supra) and in *Re Estates of Gitere Kahura and Mary Nyokabi* (supra) represent the correct law. Where there is no dispute on the shares held by the deceased in a company, the succession court has the jurisdiction to decide whether they are available for distribution and how they should be distributed. When there is intermeddling and interference with properties of the deceased, including shares, the court has jurisdiction to stop the intermeddling and to preserve the estate. However, when the dispute veers off to contestations on who are the company's shareholders, directors, the extent and number of shares, the properties of the company, the filing of annual returns, occupation of the company's properties, liabilities of the company, etc., those are, with respect, issues for the company to be resolved under the legal framework provided by the *Companies Act*. (Emphasis mine)
6. Based on a precursory reading of the Complaint, it is clear that the claim is not about the distribution of the Estate of the late Tejwant Singh Grewal, but rather, concerns questions relating to whether or not such shares may be held in trust for various reasons. I am therefore satisfied, at this stage of the proceedings, and based on a limited review of the Complaint, that the subject matter belongs in the present court.

Conclusion and Disposition

7. For the reasons stated above, I find that the Preliminary Objection dated 19th October, 2023, is not merited and the same is dismissed with costs to the Plaintiffs.

DATED AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS THIS 27TH DAY OF MARCH, 2025

ALEEM VISRAM, FCIArb

JUDGE

In the presence of;



.....Court Assistant
..... for 1st Plaintiff
.....for 2nd Plaintiff
..... for 3rd Plaintiff
..... for 4th Plaintiff
..... for 1st Defendant
..... for 2nd Defendant
..... for 3rd Defendant

