Interim Motion to Restrain Sale Under a Disputed Impostor Charge

Educational sample 433 | Nakuru

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAKURU

ENVIRONMENT AND LAND CASE NO [reference]

[OWNER THROUGH AUTHORISED DONEE] v [BANK]

NOTICE OF MOTION

1. The plaintiff seeks an interim injunction restraining the defendant from advertising, auctioning or transferring parcel [reference] under charge entry [reference] pending determination of the cancellation suit or further order. The application identifies the actual threatened sale and the persons to be bound.

2. The substantive plaint alleges an unauthorised charge executed using a competing title and identity record while the owner was abroad. The supporting affidavit and genuine title, search, charge and travel material disclose the basis of the prima facie challenge without treating disputed allegations as final findings.

3. The risk relied upon is [actual sale notice, auction date or other evidenced step]. The plaintiff explains the injury from enforcement over the identified property and why damages would be inadequate on the genuine circumstances. The source outcome alone does not establish urgency in another file.

4. The plaintiff addresses the balance of convenience, current occupation, development and preservation. Prior applications, undertakings, payments and adverse material are disclosed at [references]. The plaintiff does not seek an interim final cancellation through an undefined restraint.

5. The relief is sought under the applicable Civil Procedure injunction powers and the competent ELC jurisdiction. Any ex parte urgency and duration require specific evidence, lawful service and prompt hearing directions. The plaintiff offers the undertaking the Court lawfully requires.

6. PRAYERS: grant the precisely framed interim restraint if the test is met; give service and inter partes hearing directions; and determine costs. This is a prospective educational motion based on the reported threatened sale. The source final judgment does not prove this draft was filed or an interim injunction granted.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Use the actual existing cause, applicable power and precise interim or substantive prayers with genuine supporting evidence. Disclose adverse facts, earlier applications, current orders and delay. Complete affidavit, exhibits, urgency certificate only where justified, fee and service under current directions. A proposed corrected motion does not establish that the missing facts or procedural permission exist. Prospective reconstruction only. Verify current sale risk, the injunction test, undertakings and all prior orders; do not cite the final judgment as evidence of an actual present threat.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

An owner living abroad challenged a KES 10 million charge securing another person loan. The owner donee retained the genuine title. The bank file used a title with a conflicting date, an identity photograph unlike the owner, a purported signature and a spousal document describing the owner as unmarried. Passport evidence placed the owner abroad at execution. The bank did not defend.

Nakuru ELC found the charge fraudulent, ordered its entry cancelled and the register restored, and held that the bank could not exercise chargee sale rights. Costs were awarded against the bank. No separate general-damages sum appears in the operative orders. The report also appears under [2019] eKLR.

Prove the owner positive title chain and the actual charge documents, not only suspicion. Authority of the donee and admissible travel/identity comparison require genuine documents. The opening report has an impossible charge date; use certified originals. Interim motion and affidavit below are prospective educational reconstructions of the reported threatened sale, not assertions that this wording was filed or an interim order granted.

[2019] KEELC 1532 (KLR) - 1 October 2019. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelc/2019/1532/eng@2019-10-01

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/james-mogunde-mogunde-suing-on-behalf-of-and-as-donee-of-power-of-attorney-from-edward-sakawa-nyasaka-v-faulu-micro-finance-bank-limited-2019-eklr

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.