



**Maina v Muthoni & 2 others (Tribunal Case E188 of 2024)
[2024] KEBPRT 997 (KLR) (21 June 2024) (Ruling)**

Neutral citation: [2024] KEBPRT 997 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
TRIBUNAL CASE E188 OF 2024
CN MUGAMBI, CHAIR
JUNE 21, 2024**

BETWEEN

NANCY NYAMBURA MAINA TENANT

AND

SUZANNE MUTHONI 1ST RESPONDENT

BLISS VILLA AGENCY 2ND RESPONDENT

RACHEAL NJOKI MURIUKI 3RD RESPONDENT

RULING

1. The Tenant's Application dated 25.04.2024 seeks the following orders;-
 - a. That the status quo be maintained pending the hearing of the Application.
 - b. That the Respondents be ordered to reconnect electricity or alternatively the Tenant be ordered to reconnect the same and recover the costs thereof from future ret.
 - c. That the Respondents be restrained from attaching or selling the Tenant's tools of trade and/or evicting the Tenant.
 - d. That the court be pleased to stay any execution proceedings.
 - e. That the court be pleased to review, vary, set aside and/or rescind the Ruling issued on 19.4.2024 and all consequential orders and directions.
2. The Tenant/Applicant's affidavit in support of her Application may be summarized as follows;-
 - a. That the process leading to the grant of the orders of 19.04.2024 was done in bad faith and extreme secrecy since the Tenant was not given a fair hearing before the Ruling was delivered.



- b. That the Respondents have disconnected electricity power supply to the suit premises leading to loss of business.
 - c. That the Tenant only knew about the Ruling when she attended the court virtually.
3. The only issue that arises for determination in this Application is whether the Tenant's Application has established sufficient grounds for the grant of the orders sought in her Application and more specifically, whether there exists grounds for setting aside the orders emanating from the court's Ruling delivered on 19.04.2024.
4. In the Ruling dated 19.04.2024, the court held as follows:-
- “9- The Tenant's Application is dated 9.2.2024 which can only mean that as at the time of filing the Reference and the Application, the suit premises had been opened and the Tenant had free unlimited access to the said premises.
- 10- In these circumstances, it is my view that the Tenant is clearly abusing the court process...
- 11- In the circumstances, I do find that the Application and Reference by the Tenant lacks merit and are hereby dismissed with costs to the Landlord.
5. It is the Tenant's case that the above orders were arrived at in extreme secrecy since the Tenant was not given a fair hearing before the orders were issued. But is this the case?
- a. On 19.02.2024 when the Application came up for hearing, the Tenant was present in court and Ms. Muema represented the Respondents. On the said day, the court allowed the Tenant's Application in terms of prayers (2), (3) and (6) and fixed the Application for hearing on 19.03.2024.
 - b. On 19.03.2024, the Tenant was present in person and Ms. Muema once again represented the Respondents. On the said day, the court made the following order;
- “The Tenant be served with the replying affidavit within three days. Upon service, the Tenant will file a further affidavit together with her submissions. The landlord will upon service file her submissions within seven days.
- Ruling on 19.04.2024.
- Status quo will be maintained.”
- c. On 19.04.2024, the court duly delivered the Ruling as mentioned in the proceedings of 19.03.2024.
6. The Tenant has clearly participated fully in these proceedings and her allegations that the proceedings were conducted in extreme secrecy are not only untrue but unfortunate in the extreme.
7. I have perused the grounds upon which the Application is based and the Affidavit in support thereof. Nothing in the affidavit and grounds establishes any of the known grounds upon which an order of review can be granted in favour of the Applicant. There is no new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the Applicant, or could not be produced by the Tenant when the order sought to be reviewed was made. The Tenant has further not established any mistake or error apparent on the face of the record and in my view, no other sufficient reason has been advanced by the Tenant. (see Order 44 Rule 1 of the Civil Procedure Rules).



8. Consequently, I do not find any merits in the Tenant's Application dated 25.04.2024 and the same is dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 21ST DAY OF JUNE 2024

HON. CYPRIAN MUGAMBI

CHAIRPERSON

BUSINESS PREMISES RENT TRIBUNAL

Delivered in the presence of Ms. Nyambura the Tenant and in the absence of the Respondents

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