

KENYA / JUDGMENT

Munzaa v Mbuvi & another

[2025] KEBPRT 440 (KLR)

[2025] KEBPRT 440 (KLR)**COURT**

Business Premises Rent Tribunal

BEFORE

N Wahome, Joyce Murigi

CASE / FILE NUMBER

Tribunal Case E258 of 2024

Source: new.kenyalaw.org · Research copy typeset by Esheria. Not court-issued or certified.

Munzaa v Mbuvi & another (Tribunal Case E258 of 2024) [2025] KEBPRT 440 (KLR) (16 December 2025) (Ruling) Neutral citation:

[2025] KEBPRT 440 (KLR) Republic of Kenya In the Business Premises Rent Tribunal Tribunal Case E258 of 2024 N Wahome, Chair & Joyce Murigi, Member December 16, 2025 Between Clinton Mwakavi Munzaa Landlord and Alexander Mwanza Mbuvi Tenant and Envolata Mbala Mkamburi Applicant

Ruling

1.This Ruling is on the proposed 2nd Tenant/Applicants' notice of motion application dated the 8th September, 2025 which is brought under sections 1A, 1B & 3A of the civil procedure Act, Order 1 Rule 6, Order 12 Rule 7 and Order 40 Rule 1 of the civil procedure Rules. In the application, the Applicant seeks for the following reliefs; -I.SpentII.That the honourable court be pleased to join Envolata Mbala Mkamburi As the 2nd Tenant/Respondent in the proceedings.III.That the honourable court be pleased to set aside the Judgement and/or orders made on the 15th May, 2025 and other consequential orders.IV.That the honourable court be pleased to grant temporary injunction restraining the Landlord/Applicant/ Respondent from levying distress for rent and/or evicting the 2nd Tenant/Respondent/Applicant herein from the business premises known as Barakah Hardware situated at Msikiti Noor Railway yard pending the hearing and determination of this application.V.That this honourable court be pleased to grant temporary injunction restraining the Landlord/Applicant from levying distress for rent and/or evicting the 2nd Tenant/Respondent/Applicant herein from her business premises known as Barakah Hardware situated at Msikiti Noor Railway Yard pending the hearing and determination of the reference filed herein.VI.That proceedings of the 15th May, 2025 be set aside, the 2nd Tenant/Respondent/Applicant be granted leave to respond to the reference herein.VII.That costs of this application be provided for. 2.We observe that Prayers 2 and 6 in the present application have previously been addressed in the Ruling dated the 29th July, 2025. It is also further

appreciated that the proposed 2nd Tenant/applicant was not a party to those proceedings. The question then that begs for our answer is whether the applicant is deserving of the orders sought. This answer will be found on the determination of the issue whether the Applicant would have the requisite locus standi if enjoined in these proceedings. The Jurisdiction of this court is founded on Section 2(1) of the landlord & Tenant (shops, hotels and catering establishments) Act which we herein after refer to as “the act “ 3.The section provides that; -“controlled tenancy” means a tenancy of a shop, hotel or catering establishment—(a)which has not been reduced into writing; or(b)which has been reduced into writing and which—(i)is for a period not exceeding five years; or(ii)contains provision for termination, otherwise than for breach of covenant, within five years from the commencement thereof; or(iii)relates to premises of a class specified under subsection (2) of this section: 4.In our view therefore, it is a primary requirement that there must be in existence a controlled tenancy and further a Landlord and Tenant Relationship for this court to have the wherewithal to superintend over any issues between the parties before it. This is an issue that is settled in our jurisprudence and to fortify our position, we put reliance in the case of-Pritam v Ratilal & Another [1972] EA 560 where the Court held that; -“Therefore, the existence of the relationship of landlord and tenant is a prerequisite to the application of the provisions of the Act. Where such a relationship does not exist or it has come to or been brought to an end, the provisions of the Act will not apply. The applicability of the Act is a condition precedent to the exercise of jurisdiction by the Tribunal, otherwise, the Tribunal will have no jurisdiction. There must be a controlled tenancy as defined in Section 2 to which the provisions of the Act can be made to apply, outside it, the Tribunal has no jurisdiction”. 5.From the above cited case law and the lucid provisions of section 2(1) of the act, it is apparent that there is neither a controlled tenancy subsisting between the Applicant and the tenant nor with the Landlord on record. It is clear from the record and the applicant’s pleadings that the Applicant’s Landlord is M/s Kenya Railways Corporation which is not a party in these proceedings. This court has therefore no authority of the law to look into the issues raised by the applicant as she has no locus standi in this suit and none is obtainable when looked against the totality of the reality and circumstances of this suit. We would therefore dismiss the application dated 8th September, 2025 without much ado. 6.On costs, we find that neither the Landlord nor the Tenant participated in these proceedings and we would therefore order that each party bears own costs. 7.In the final disposal of this matter, we make the following orders; -1.That the Application dated the 8th September, 2025 is struck out.2.That each party shall bear own costs of the application.Those are the orders of the Court. DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 16TH DAY OF DECEMBER, 2025.HON NDEGWA WAHOME, MBS.PANEL CHAIRPERSON,BUSINESS PREMISES RENT TRIBUNAL.-AND-HON JOYCE MURIGI, MEMBER,BUSINESS PREMISES RENT TRIBUNAL.Delivered in the presence of; -Mr Otwere For The.....applicant/proposed 2Nd TenantN/a For The.....respondent/landlordN/a For The.....respondent/tenant

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://new.kenyalaw.org/akn/ke/judgment/kebprt/2025/440/eng@2025-12-16>

CASE PAGE <https://chat.esheria.ai/case-law/kenya/munzaa-v-mbuvi-and-another-2025>

Prepared on 26 October 2026 · Esheria