



REPUBLIC OF KENYA



**Roba & 2 others v Huka & 3 others (Environment and Land Appeal
E002 of 2023) [2023] KEELC 19293 (KLR) (26 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 19293 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISILOLO
ENVIRONMENT AND LAND APPEAL E002 OF 2023**

PM NJOROGE, J

JULY 26, 2023

BETWEEN

GUYO HUKA ROBA 1ST APPELLANT

TADESA MOHAMMED 2ND APPELLANT

ROBA ARERO 3RD APPELLANT

AND

SORA GUYO HUKA 1ST RESPONDENT

GUYO OKOLA HARO 2ND RESPONDENT

MICHAEL MALICHA GUYO 3RD RESPONDENT

IBRAHIM ABDI SORA 4TH RESPONDENT

RULING

1. This application is dated 18th day of July, 2023 and seeks the following orders;
 1. That due to the urgency of the matter, the honourable court be pleased to dispense with service at first instance, and hear the application expeditiously owing to its extreme and demonstrated urgency.
 2. That this honourable court be pleased to grant an interim order of temporary injunction restraining the defendants, their agents, mercenaries, servants and/or employees from trespassing, entering, invading or any way interfering with the plaintiffs/applicants quiet possession and occupation of LR No Marsabit/ Jirme/1401 and LR No Marsabit/ Jirme/1373 and LR No Marsabit/ Jirme/1427 pending the hearing and determination of this application interparties.



3. That this honourable court be pleased to grant an order of temporary injunction restraining the defendants, their agents, mercenaries, servants and/or employees from trespassing, entering, invading or in any way interfering with the plaintiffs/applicants' quiet possession and occupation of LR No Marsabit/ Jirme/1401 and LR No Marsabit/ Jirme/1373 and LR No Marsabit/ Jirme/1427 pending the hearing and determination of this suit.
2. The application is supported by the Affidavit of Guyo Sora Huka Roba, the 1st appellant, and has the following grounds;
 1. That the plaintiffs/applicants are the registered owners of LR No Marsabit/ Jirme/1401 and LR No Marsabit/ Jirme/1373 and LR No Marsabit/ Jirme/1427 respectively and they hold absolute and exclusive rights of ownership, possession, occupation and use the same.
 2. That the defendants/respondents through their agents, mercenaries, servants and/or employees have illegally trespassed on the suit lands and erected illegal beacons and structures with a purpose of depriving the plaintiffs/applicants possession of the same and their right to harvest murrum and ballast thereon.
 3. That the plaintiffs/applicants have credible information and evidence That the defendants/respondents herein are the real instigators behind the persons who were found illegally occupying the suit lands and who were subsequently arrested and charged in court with the criminal offence of forcible detainer.
 4. That the defendants/respondents act of instigating downtrodden members of a community to illegally occupy the plaintiffs/applicants private land is aimed at breaching peace and it's a recipe for inter-ethnic violence.
 5. That it is in the larger interests of justice that the orders being sought are granted.
3. Advocate Kaumbi, for the respondents, opposed the application.
4. Having heard the parties, I issue the following orders;
 - a. The appellants are granted leave to file a further affidavit within 14 days of today and the parties are accorded liberal and open leave to further respond as they deem fit but up to 7 days before the next date for directions.
 - b. Prayer 2 in the application is granted on condition that the appellants do deposit with court as security the sum of Kshs 600,00 within 14 days of today failing which the conditional stay granted herein will automatically lapse.
 - c. Upon filing of their further affidavit, the appellants will file and exchange their written submissions within 14 days, and the respondents will do so within 14 days after receipt of the appellant's written submissions
 - d. The parties will come to court for directions on October 2, 2023.

DELIVERED IN OPEN COURT AT ISIOLO THIS 26TH DAY OF JULY, 2023 IN THE PRESENCE OF;

HON. JUSTICE P.M NJOROGE

JUDGE

