

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAROK

HIGH COURT CIVIL NO. 1 OF 2017

NANCY WANJIKO KINGORI.....PLAINTIFF/APPLICANT

VERSUS

KUSSCO LIMITED & ANOTHER.....DEFENDANT/RESPONDENT

RULING

1. The plaintiff/Applicant has filed an application seeking a temporary injunction against the defendant/respondent from auctioning, selling, disposing, evicting or in any other way interfering with the plaintiff's use of land parcel Cis-Mara/Olopito/2326 pending the hearing and determination of this application.

2. The Defendant/Respondent filed written submissions in which he raised the issue of jurisdiction of this court to hear and determine this application and or suit. The respondent submitted that this court lacks jurisdiction to entertain and determine this matter.

3. I have considered the pleadings of both parties, the affidavit evidence and the written submissions. I find that the plaintiff/Applicant was a member of the first Defendant/Respondent Co-operative Society. And I also find that the dispute between the parties is in relation to the amount of money owed to the first Defendant/Respondent in respect of a loan of Sh. One million (Shs.1,000,000) that was to be repaid in four years.

4. In the circumstances, I find that this is a dispute that should be resolved first by the tribunal which is set up by the Co-operative Society Act in terms of section 76 (1) of the Co-operative Societies Act.

5. The upshot of the foregoing is that this application together with the suit are matters that should be dealt with by the tribunal.

6. Costs of this application shall be costs in cause.

Ruling delivered in open court this 29th day of June 2017 in the presence of Mr. Kiptoo for the appellant and Mr. Ndungu holding brief for Mr. Modi for the respondent.

J. M. Bwonwonga

Judge

29/6/2017