



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT CHUKA**

**CHUKA ELC CASE NO 255 OF 2017**

**FORMRLY MERU ELC CASE NO. 77 OF 2016**

**CYPRIAN KITHURE GAICHENA.....PLAINTIFF**

**VERSUS**

**JEREMIAH MUTHENGI .....DEFENDANT**

**RULING**

1. This application is dated 25<sup>th</sup> April, 2016 and seeks orders:
  1. That this matter be certified as urgent & that service of the same be dispensed with.
  2. That this honourable court be pleased to issue orders of temporary injunction restraining the defendant, his agents, servants, assignees, representatives or anyone acting at the defendant's behest from interfering with LAND PARCEL NUMBER THARAKA/IRUNDUNI/809 pending the hearing and determination of this application.
  3. That cost of this application be in the cause.
2. The application is supported by the affidavit of CYPRIAN KITHURE GAICHENA which states:
  1. That I am the applicant herein, the applicant in this matter hence competent to swear this affidavit.
  2. That I am the owner of LAND PARCEL NUMBER THARAKA/IRUNDUNI/809 having bought the same from one Moses Gakunyi M'makembo vide a sale of land agreement, the vendor acknowledging that indeed he sold me the said parcel.
  3. That after I had brought the same from the vendor, in the year 2014 the defendant unlawfully invaded my parcel of land without any justification whatsoever and preventing me from utilizing.
  4. That as a result I have suffered immensely as I am unable to access my land to farm during this rainy season.
  5. That I am praying that the defendant or anyone acting on his behalf from whatsoever from interfering with LAND PARCEL NUMBER THARAKA/IRUNDUNI/809 pending the hearing and determination of this application interparties.

6. That what is deponed herein is true to the best of my knowledge, information and belief.

3. On 25.7.2016, the defendant/respondent was granted 21 days to respond. Over 1 year later the defendant/respondent has not responded.

4. I agree with Mr. Womache, the plaintiff's advocate that the application should be allowed in terms of prayer 2.

5. In the circumstances, the application is allowed in terms of prayer 2.

6. Costs shall be in the cause.

7. The plaintiff is ordered to fully comply with order 11, CPR within 14 days of today and the defendant should comply with order 11, CPR within 14 days after receipt of the plaintiff's compliance documents.

8. The plaintiff is to serve the orders issued by the court today upon the defendant within 5 days of today.

9. Directions on 30.10.2017

10. It is so ordered.

Delivered in open court at Chuka this **26<sup>th</sup> day of September, 2017** in the presence of:

CA: Ndegwa

Womache for the plaintiff

**P. M. NJOROGE**

**JUDGE**