



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
E&L SUIT NO 58 OF 2015

COL. (RTD) DR. HENRY MUTHEE KATHURIMA PLAINTIFF

VERSUS

THE COUNTY GOVERNMENT OF MERU.....DEFENDANT

R U L I N G

This application is dated 23rd July, 2015 and seeks Orders:-

- a. *That the application be certified urgent and the same be heard exparte in the 1st instance.*
- b. *That pending the interparties hearing of the application, an order of temporary injunction be issued, restraining the Defendant by itself, its physical planning department or any other Officer, person, agent contractor or anybody else acting at its direction, behest, authority and contract, from forever entering into, trespassing into, enforcing the notice dated 29/06/2015 or interfering in any manner whatsoever with L.R.NO NGUSISHI SETTLEMENT SCHEME/10, the Plaintiff's property.*
- c. *That pending the hearing and determination of the suit, an order of Temporary Injunction be issued, restraining the Defendant by itself, its Physical Planning department or any other Officer, person, agent contractor or anybody else acting at its direction, behest, authority and contract, from forever entering into, trespassing into, enforcing the notice dated 29/06/2015 or interfering in any manner whatsoever with L.R NO. NGUSISHI SETTLEMENT SCHEME/10, the plaintiff's property.*
- d. *That the costs of this application be provided for.*

The application is supported by the affidavit of Dr. Henry Kathurima and has the following grounds:-

1. *The Plaintiff is the registered proprietor of L.R. NO NGUSISHI SETTLEMENT SCHEME/10 measuring 44.5 Ha (110 Acres).*
2. *On 12/03/2015, the defendant's agents illegally entered the Plaintiff's land and marked out 0.98 Ha from the Plaintiff's land purporting that it is part of Ngusishi market.*
3. *On 13/07/2015, the Plaintiff received an enforcement notice dated 29/06/15 from the*

defendant, ordering the plaintiff to surrender the 0.98 Ha to the Defendant by 31/07/15, failure whereof the Defendant would forcefully take the said 0.98 Ha and at the expense of the Plaintiff.

4. *That the Defendant's actions through its agents are illegal and unconstitutional as it amounts to grabbing the Plaintiff's land.*
5. *That the Plaintiff stands to lose his property which is developed, unless the orders sought herein are granted.*
6. *That the Plaintiff has a constitutional right not to be arbitrarily deprived of his property.*

Interim Orders in terms of prayer b were granted on 27/07/2015. Today's mention for directions was obtained by Consent on 26/01/2016. However, the defendant is not represented in Court today.

Mr. Mutunga holding brief for Mr. Mwirigi for the Plaintiff has asked the Court to allow the application in view of the fact that it is not opposed and the defendant is not in Court. I do note that today's mention for direction was fixed by consent. In the circumstances, **I find Mr. Mutunga's Oral application meritorious. I allow the application with the effect that pray C is granted. Costs shall be in the cause.**

It is so ordered.

Delivered in open Court at Meru this 23rd day of February, 2016

in the presence of:-

CC: Daniil/Lilian

Mutunga h/b Mwirigi for the Plaintiff

P. M. NJOROGE

JUDGE