



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
PETITION NO. 2 OF 2012

ZIPPORAH NKOYAI HENRY.....PETITIONER /APPLICANT

VERSUS

JAMES KABERIA M'ITWAMWARI.....1ST RESPONDENT

THE LAND ADJ. OFFICER, TIGANIA E & W DISTRICTS.....2ND RESPONDENT

ATTORNEY GENERAL3RD DEFENDANT

R U L I N G

This application is stated as having been brought under Articles 48,159 and 165 of the Constitution of Kenya, Order 40 Rule 3(1) (2) and (3) of the Civil Procedure Rules, 2010 and Sections 1A, 1B, 3A and 63 (e) of the Civil Procedure Act, (Cap 21). It is dated 29/03/2016 and seeks the following orders:-

1. ***THAT the application be certified urgent and it be heard ex-parte in the first instance.***
2. ***THAT the Officer Commanding Mikinduri Police Station be empowered and authorized to enforce the order of status quo made herein vide a ruling delivered on 18.02.2014, by ensuring that the 1st respondent, JAMES KABERIA M'ITWAMWARI and anybody else acting at his behest, direction or instruction, do not enter into and/or interfere in any way, with the Petitioner's/Applicant's ZIPPORAH NKOYAI HENRY'S quiet exclusive and actual cultivation, user and enjoyment of land P/Nos. 1458, measuring about 3.36 acres and 8206, measuring about 3.15 acres, both situated in Antuamburi Adjudication Section.***
3. ***THAT an order be issued, for arrest and detention in prison and/or for payment of a fine, against the 1st respondent, for disobedience of the order of status quo vide the ruling of 18.02.2014.***
4. ***THAT costs of the application be proved (sic) for.***

The application is supported by the affidavit of ZIPPORAH NKOYAI HENRY and has the following grounds:-

- a. ***THAT the 1st respondent and his agents have continuously disobeyed the said status quo order.***
- b. ***THAT the 1st respondent has all along been acutely aware of existence of the said order.***
- c. ***THAT the 1st respondent and his agents harvested the applicant's maize and beans on the suit***

land.

- d. ***THAT the 1st respondent and his agents have vowed to forcibly evict the applicant from the suit land.***

At this exparte stage, I find it necessary to grant prayer 2 which is meant to implement an order of this Court. **In the circumstances prayer 2 is granted.**

Regarding prayer 3, the applicant is directed to personally serve the alleged contemnor, James Kaberia M'Itwamwari with this application. His Advocate should also be served.

I direct that the application be heard interpartes on 19/4/2016.

It is so ordered.

Delivered in Open Court at Meru this **31st day of March, 2016** in the presence of:-

CC: Lilian

Carlpeters Mbaabu for the Applicant

P.M. NJOROGI

JUDGE