



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**ELC CASE NUMBER 148 OF 2016**

**SEBASTIANO KINOTI MARETE.....PLAINTIFF/APPLICANT**

**VERSUS**

**AGRICULTURAL FINANCE CORPORATION.....DEFENDANT/RESPONDENT**

**R U L I N G**

1. This application is dated 31st August, 2016 and seeks orders:-

*(1) That this Honourable Court do certify this matter urgent and hear it on priority.*

*(2) That this Honourable Court do restrain the Respondent, their agents assignees or anybody else working on their behalf from auctioning or selling the Applicant's land parcel NO. ABOTHUGUCHI/LOWER KAONGO/588 by public action or in anyway interfering with the Applicant's proprietary rights until this Application is heard and determined or further orders of this Court.*

*(3) That costs be provided for*

2. The application is supported by the Affidavit of SEBASTIAN KINOTI MARETE, the Plaintiff and has the following grounds:-

*(a) The Applicant does not owe the defendant any loan balance.*

*(b) The Respondent has never served the Applicant with any Notice as required by the law.*

*(c) The Applicants land is scheduled to be sold by public auction on 06.09.2016 for no justifiable reason.*

3. The Supporting Affidavit reads as follows:-

*(1) That I am the Applicant /Plaintiff in this case and competent to make this Affidavit.*

*(2) That I was granted an agriculture loan by the Defendant/Respondent and I received Kshs. 246,000/= as evidenced by the annexed slips marked as SM1&11.*

*(3) That I was supposed to be paying Kshs. 20,000/= per month and but due to crop failure I delayed a little bit but at last I paid the whole amount plus interest all amounting to Kshs. 398,000/= Annexed is copy of the paying receipts marked SKM 111, IV,V,VI,VII,VIII and Kshs. 200,000 /= of the same was paid at once on but the receipt was misplaced.*

***(4) That my Advocate have written a number of times to the Defendant demanding my account statements but the Defendant has declined to issue the same. The said letters to marked as SKM 1X & X.***

***(5) That the Respondent have never told me if I owe them any balance and I never received any notice from the Respondent other than my brother in law calling me from Nairobi and told me that my land is in Nation Newspaper shall be sold on 06.09.2016, annexed hereto is copy of the same marked SKM XI.***

***(6) That it was a shock to me to find my land in the news papers and I got the copy on 26.08.2016 and that is why I am coming to Court because I do not owe the Defendant any money.***

***(7) That its just and proper that this Honourable Court do restrain the Respondent from auctioning my P/NO. ABOTHUGUCHI/LOWER KAONGO/588 pending hearing and determination of this suit.***

***(8) That what is deponed herein above is true to the best of my knowledge, belief and understanding.***

4. During Interpartes hearing on 19/09/2016, Mr. Kirima, for the applicant asked the Court to allow the application as the defendant or its advocate were not in Court even though they were aware of the apposite hearing date.

5. I am satisfied that the Defendant was aware of today's hearing date. The Application is deemed heard interpartes.

6. Prayer 2 is granted pending hearing and determination of the suit.

7. Costs shall be in the cause.

8. It is so ordered.

**WRITTEN AND DELIVERED IN OPEN COURT AT MERU THIS 19<sup>TH</sup> DAY OF SEPTEMBER , 2016 IN THE PRESENCE OF:-**

CA : Daniel/James

Kirima for the Applicant

**P . M. NJOROGE**

**JUDGE**