



**REPUBLIC OF KENYA**

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

**ORIGINATING SUMMONS NO. 111 OF 2016**

**IN THE MATTER OF L.R. NO. ABOHUGUCHI/MARIENE/459**

**AND**

**IN THE MATTER OF THE LAND REGISTRATION ACT**

**AND**

**IN THE MATTER OF THE LIMITATION OF ACTIONS ACT**

**STELLAH NDURU ICHUNGE.....1ST PLAINTIFF/APPLICANT**

**ESTHER KARIMI ICHUNGE.....2ND PLAINTIFF/APPLICANT**

**VERSUS**

**EZEKIEL NKAMANI ICHUNGE.....1ST DEFENDANT/RESPONDENT**

**SILAS M'IKIRIMA M'ICHUNGE.....2ND DEFENDANT/RESPONDENT**

**RULING**

1. This Application is dated 25/07/2016 and seeks orders:-

(1) ***THAT this application be certified urgent and heard ex-parte in the first instance on account of its urgency.***

(2) ***THAT this Honourable Court be pleased to grant an Order of Temporary Injunction restraining the Defendants by themselves, their agents, employees, servants, assigns or any other people acting on their behest from evicting or in any other way interfering with the Applicants' right of user and occupation of Land Parcel Number Abothuguchi/Mariene/459 pending the hearing and determination of this Applicant or further orders of Court.***

(3) ***THAT this Honourable Court be pleased to grant an Order of Temporary Injunction restraining the Defendants by themselves, their agents, employees, servants, assigns or any other people acting on their behest from transferring, selling, evicting or in any other way interfering with the Applicants' right of user and occupation of Land Parcel Number Abothuguchi/Mariene/459 pending the hearing and determination of this suit.***

(4) ***THAT an order of Inhibition be issued inhibiting any dealings in Land Parcel No. Abothuguchi/Mariene/459 pending the hearing and determination of this application.***

**(5) THAT an order of Inhibition be issued inhibiting any dealings in Land Parcel No. Abothuguchi /Mariene/459 pending the hearing and determination of this suit.**

**(6) THAT the costs of this Application be provided for.**

2. The Application is supported by the Affidavit of STELLAH NDURU ICHUNGE, the 1st Applicant and has the following grounds:

**(a) *The Applicants have, without the permission of the Respondent, been in exclusive, actual, open and uninterrupted possession of a 1.5 acre portion of Land Parcel No. Abothuguchi/Mariene/459 since the year 1989 and have acquired beneficial interest under the doctrine of adverse possession .***

**9b) *The Applicants have made substantial developments on the Land including but not limited to putting up structures and introducing infrastructure in the form of water and electricity. Since 1989.***

**(c) *The applicants will suffer irreparable loss and damage if they are evicted from the land or if the land is sold off and they thus lose the rights they have acquired over it.***

**(d) *It is only fair and equitable to preserve the suit land to enable the Applicants to ventilate their cause.***

3. The Application was heard Interpartes on 19/09/2016. The Defendant's did not deny that the Application was served on them on 08/08/2016 as intimated by the Plaintiffs. They only asked for 30 days to enable them engage the service of a lawyer.

4. In the Circumstances, the Application is not opposed and is allowed.

5. The effect is that prayers 3 and 5 are granted.

6. Costs shall be in the cause.

7. Defendants granted 30 days to engage the services of a Lawyer.

8. Directions on 14/11/2016.

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

CA: Daniel/James

Nyauchi for the Applicants

Ezekiel Nkamani -1st Defendant

Silas M'Ikirima -2nd Defendant

**P. M. NJOROGE**

**JUDGE**