



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

**CIVIL SUIT NO 50 OF 2015**

**REBECCA KARIMI.....PLAINTIFF**

**VERSUS**

**M'LINGERA M'TUTUCHIU.....1ST DEFENDANT**

**THE DISTRICT LAND & ADJUDICATION OFFICER**

**-IGEMBE DISTRICT.....2ND DEFENDANT**

**THE ATTORNEY GENERAL.....3ND DEFENDANT**

**RULING**

On 29/07/2015, Mr. Gitonga, the Advocate for the Defendant told the Court that the Parties had a Consent which they wanted adopted as an Order of this Court. Mr. Mutembei, the Advocate for the Plaintiff confirmed that position.

Earlier on, the Parties had made their Oral Submissions regarding the Plaintiff's Application dated 9th July 2015. The Application seeks the following Orders.

1. ***THAT the Application herein be certified as urgent and be heard ex-parte in the 1st instance.***
2. ***THAT the Honourable Court do order the 1st Defendant, his family and agents who have occupied the Plaintiff's home and Land in Lower Athiru Gaiti "B" Adjudication Section to vacate the same pending the hearing and determination of this Application.***
3. ***THAT an order be issued restraining the 1st Defendant, his family, agents, employees, servants or anyone else acting at his behest from entering, occupying, dealing or in any other way interfering with the Plaintiff's use and occupation of land parcel No. 791 Lower Athiru Gaiti "B" Adjudication Section pending the hearing and determination of this Application.***
4. ***THAT an Order be issued restraining the 1st Defendant, his family, agents employees, servants or anyone else acting at his behest from entering occupying, dealing or in any other way interfering with the Plaintiff's use and occupation of land parcel No. 791 Lower Athiru Gaiti "B" Adjudication Section pending the hearing and determination of this suit.***

5. ***THAT*** the Honourable Court be pleased to confirm Prayer 2 after inter parties hearing of this Application.

6. ***THAT*** O.C.S Maua Police Station to ensure compliance.

7. ***THAT*** costs be in cause.

This Application is supported by the Affidavit of Rebecca Karimi, the Plaintiff and has the following grounds:-

1. ***THAT*** the Plaintiff and her family were violently chased away from their homes built (sic) land Parcel No. 781 Lower Athiru Gaiti "B" Adjudication Section on 1st July, 2015 by the 1st Defendant who has taken occupation of the same.

2. ***THAT*** the Plaintiff and her family have been subjected into sever(sic) and irreparable suffering as they are sleeping in cold and unless the Honourable Court intervenes they are likely to suffer more.

3. ***THAT*** the Plaintiff and her family have lived in the suit land from way back in the year 1984 to date.

4. ***THAT*** the Plaintiff and her family have no alternative home or land.

5. ***THAT*** the 1st Defendant has never lived in the suit land.

6. ***THAT*** it is in the best interest of justice that the prayers sought herein be granted.

The Consent dated 29th July, 2015 is duly signed by the Plaintiff and the Defendant and is also signed by Advocate Hosea Mutembei Peter for the Plaintiff and Advocate Harun Gitonga for the Defendant.

The Consent is in the following terms:-

- a) ***THAT*** suitland be shared into two equal portions between the Plaintiff and the 1st Defendant.
- b) ***The Land Demarcation Officer of Lower Gaiti "B" Adjudication land be and is hereby ordered to determine the respective shares on the ground.***
- c) ***The Plaintiff shall take possession of upper section towards Maximum Miracle Centre.***
- d) ***The parties to maintain the current status quo as to the developments and properties on the suitland.***
- e) ***Both the Plaintiff and the 1st Defendants to have free access to the homestead on the suitland.***
- f) ***The 1st Defendant's children are hereby restrained from interfering in anyway with the Plaintiff's access to the homestead and user of her portion of the suitland.***
- g) ***That the Parties to share equally the current season harvest from the suitland.***
- h) ***The O.C.S Maua Police Station is hereby ordered to ensure full compliance of these orders***
- i) ***The costs of the Application be in the cause.***

The consent is adopted as an order of this Court. One of the effects of this adoption is that the Application dated 9th July, 2015 is marked as settled with costs being in the cause.

It is so ordered.

Delivered in open Court at Meru this 29th day of July, 2015 in the presence of:-

CC: Lilian

Mutembei for the Plaintiff

Harun Gitonga for Defendant.

**P.M. NJORGE**

**JUDGE.**