



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MACHAKOS

ELC CASE NO. E087 OF 2021

BLACK TRAP PRODUCTS LTD.....PLAINTIFF

VERSUS

MAVOKO LAND DEVELOPMENT COMPANY LTD.....1ST DEFENDANT

LAND REGISTRAR MACHAKOS.....2ND DEFENDANT

CHIEF LAND REGISTRAR.....3RD DEFENDANT

THE ATTORNEY GENERAL.....4TH DEFENDANT

RULING

1. By a Notice of Motion dated 22nd September 2021, the Plaintiff sought for the following orders;

(1) Spent

(2) Spent

(3) That pending the hearing and determination of the main suit, an interlocutory injunction order do issue restraining the 1st Defendant/Respondent, its employees, servants, agents, purchasers, lessees, lessors and any other person through whom it may act from encroaching, entering, trespassing, seizing, possessing, remaining thereon, or from selling, offering for sale, transferring, leasing or in other way attempting to alienate dispose whatsoever or dispossess the Plaintiffs property known as L.R. No. 11895/12 (Grant Number I.R. 55345) situated in Mlolongo in Machakos District in any way detrimental to the interests of the Plaintiff.

(4) Spent

(5) That pending hearing and determination of the main suit, an interlocutory order do issue directed at the 1st Defendant/Respondent's, its employees, servants, agents, purchasers, lessees, lessors and any other person through whom it may act from forthwith to remove such structures, buildings, perimeter fence and foundations that it has erected on the Plaintiff's property known as L.R. No. 11895/12 (Grant Number I.R. 55345) situated in Mlolongo in Machakos District.

(6) That pending the hearing and determination of this Application and the main suit, the 2nd and 3rd Defendants/Respondents be restrained from issuing certificate of title if any to the 1st Defendant/ Respondent, its employees, servants, agents, purchasers, lessees, lessors and any other person in respect to the Plaintiff's property known as L.R. No. 11895/12 (Grant Number I.R. 55345) situated in Mlolongo in Machakos District.

(7) That pending the hearing and determination of this application and the main suit, the 1st, 2nd, 3rd and 4th Defendants/Respondents and their employees, agents, servants, purchasers, lessees, lessors be restrained from doing anything with the Plaintiff's property known as L.R. No. 11895/12 (Grant Number I.R. 55345) situated in Mlolongo in Machakos District in any way detrimental to the interest of the Plaintiff.

(8) That pending the hearing and determination of this application and main suit, a permanent injunction do issue restraining the 1st Defendant/Respondent, its employees, servants, agents, purchasers, lessee, lessor and any other person

through whom it may act from encroaching, entering, trespassing, seizing, possessing, remaining thereon, or from selling, offering for sale, transferring, leasing or in other way attempting to alienate dispose whatsoever or dispossess the Plaintiff's property know as L.R. No. 11895/12 (Grant Number I.R. 55345) situated in Mlolongo in Machakos District in any way detrimental to the interests of the Plaintiff.

(9) That the OCPD Athi-River Police Station and OCS Mlolongo Police Station to assist in the enforcement of the Court Orders.

(10) That the costs of this application be awarded to the Applicant.

2. The Plaintiff's application is anchored on the grounds on its face as well as the affidavit by one **RAMJI SHAMJI PATEL**, the director of the Plaintiff sworn on 22nd September 2021 where he deposed that the Plaintiff/Applicant is the registered proprietor as lessee of Parcel of Land known as L.R. No. 11895/12 (Grant Number I.R. 55345) (suit property) on account of an Allotment Letter dated 12th March 1991; that the Plaintiff has been in occupation of the suit property since March 1991 to date; that the Plaintiff has been paying the land rates and rent; that the 1st Defendant has unlawfully encroached and trespassed on the suit property with intend to dispossess the Plaintiff of the suit property; that the 1st Defendant is illegally disposing off the suit property to third parties; that the 1st and 3rd Defendants are working in collusion and that the 3rd Defendant placed a caveat on the suit property on 4th December 2007 on allegation that the deed file could not be found.

3. The Plaintiff/Applicant further asserted that the 3rd Defendant delayed the gazette and reconstruction of the deed file and the land register which forced the Plaintiff to file Judicial Review Application ELC JR. NO. 20 of 2017, where the court decided in favour of the Plaintiff to the effect that the 3rd Defendant was granted 14 days of receipt of original grant and deed of indemnity to gazette a notice and thereafter reconstruct the deed file within 30 days of the expiry period if no objection is lodged; that the 2nd Defendant opened the suit property file vide a deed of indemnity registered, gazetted and approved accordingly; that as the Plaintiff pursued the 3rd Defendant to perform its statutory duties, the 3rd defendant colluded with the 1st Defendant to give the 1st Defendant title over the suit property; that the 1st Defendant illegally divided the suit property into plots and is now disposing off to third parties, to the Plaintiff's detriment and that the orders sought should be granted to protect the Plaintiff's constitutional right to property to forestall their suffering injustice.

4. The application is opposed. Jackson Makali Kalolwe a director of the 1st Defendant swore a replying affidavit dated 1st October 2021 where he deposed that the Plaintiff's claims are false as no leasehold title L.R. No. 11895/12 exists or is invaded or encroached; that most titles in Athi-River District Machakos County are in terms of government leases issued previously by the National Government and subject to government use and some leasehold titles have been devolved to the County Government; that in 1969 the government issued a leasehold title to Kenya Meat Commission for a term of 961 years in respect of land measuring 4103 acres which included the entire area of Mlolongo, parts of Athi-River and Katani.

5. It was further stated for the 1st Defendant that upon the collapse of the Kenya Meat Commission in the 1980's, the government revoked and withdrew the said leasehold for 961 years and in the 1990's subdivided the said parcel and leased to members of public for quarry purposes; that the applicants leasehold title bears the number 11895/12 which was issued in 1992, being a subdivision from the mother title Number L. R. No. 11895/5; that between 1995 and 1996 the government installed aviation equipment of communication and radar system for air transport system at Jomo Kenyatta International Airport and due to the explosives used in the excavation for quarry concrete, the damage caused to those equipment led the government to revoke all the titles issued and stopped the excavation of concrete and among the revoked titles was the Plaintiff's title; that the government issued a gazette notice and offered alternative land for all the revoked title holders at Katani Machakos County and the title holders were required to surrender their titles for purposes of relocation to Katani.

6. It was also deposed for the 1st Defendant that in the alternative the title holders were allowed to reapply for titles in the same area for different purposes than excavating quarry sites, which led to some applying and in the year 2000, they were granted leasehold titles for different uses such as light industries; that this meant that the survey resulted to different series bearing 25060 numbers; that as the Plaintiff's title was revoked and the Plaintiff failed to reapply for another title at Katani or change of user at Mlolongo, his title stands revoked and therefore does not exist.

7. Further, that in the year 2000 the Municipal Council of Mavoko in addressing the squatter problem had the government give land to squatters who have the land now after the same was allotted to them; that in 2007 the government through the Ministry of Lands resurveyed the whole land at Mlolongo and Athi-River and re-issued new survey numbers to the area bearing numbers L.R. No. 11895/R, 11895/36, 11895/37, 11895/38, 11895/39 and 11895/40; that the Plaintiff's title is not one of these new titles as the Plaintiff's title was overtaken by events and does not exist in the area or the survey maps; that the Plaintiff has not demonstrated to the court by any sketch map or survey report where its land is located and its beacons to warrant the orders sought; that the land was allotted to squatters who have fully developed the same and the 1st Defendant does not hold any land save for the record of owners who are entitled to the land and an order against the 1st Defendant cannot affect interests of the title holders; that the land has since devolved from the national government to the county government which issues titles in their capacity to holders of the land and the 1st Defendant has no jurisdiction over the county government; that the Plaintiff's application is a gambling and fishing exercise as all the land is occupied and possessed by the allotted squatters and the 1st Respondent cannot bar the owners from dealing with the property; that the Plaintiff is aware of what transpired in respect of the land which had been previously allocated to them and failed to reapply for fresh allotment and that the Plaintiff has never taken possession or occupation of the suit land and therefore its application ought to be dismissed.

8. In a rejoinder, the Plaintiff filed a supplementary affidavit sworn by **RAMJI SHAMJI PATEL** dated 6th October 2021 where he stated that the 1st Defendant is not the registered proprietor of the suit land; that the Plaintiff's title was never revoked; that the official searches done over the years confirm that the suit property belongs to the Plaintiff; that the 2nd, 3rd and 4th Defendants have never communicated to the Plaintiff to the effect that the title of suit property was revoked; that the 1st Defendant cannot purport to speak for the Chief Land Registrar or the Registrar of Land to the effect that the Plaintiff's title was revoked; that the 1st Defendant has not produced any documents to

prove his allegations and therefore their allegations are merely hearsay and inadmissible; that it is a procedure under the Land Act that when a deed file cannot be found, the same is reconstructed and reconstruction herein was not for purposes of instituting this suit; that under Article 40 of the Constitution, the Applicant has a right to own property and the state or any other person cannot arbitrarily deprive them of their property.

9. In addition it was deposed that the Plaintiff's title has not been challenged by any one; on account of having been acquired through undue influence or unprocedurally; that Section 26 of the Land Registration Act provides that a certificate of title is prima facie evidence that the Plaintiff is the absolute and indefeasible owner; that the dimensions of the suit property are provided in the deed plan annexed to the grant and duly registered as Land Survey Plan Number 160724, which property has been encroached by the 1st Defendant; that at no time in the year 2000 did Mavoko Municipal Council intervene on behalf of squatters or allocate the suit land to squatters; that the purported squatters are an imaginary creation of the 1st Defendant; that the 1st Defendant has no rights to keep records of purported owners of the suit land, and that no titles have been presented by the 1st Defendant to show ownership by the purported squatters.

10. The application was canvassed by way of written submissions. The Plaintiff/Applicant filed their submissions on 7th October 2021 while the 1st Defendant filed their submissions on 12th October 2021.

THE PLAINTIFF/APPLICANT'S SUBMISSIONS

11. In their submissions, the Plaintiff/Applicant reiterated the averments in their supporting and supplementary affidavits and submitted that the suit property is in danger of being alienated as the 1st Defendant does not deny encroachment of the suit property or that they continue to dispose off the same to third parties. Counsel for the Plaintiff/Applicant submitted that although the 1st Defendant alleges that the suit property was allocated to squatters by Municipal Council of Mavoko in the year 2000, no document was produced by the Plaintiff to that effect.

12. Counsel for the Applicant argued that Order 40 Rule 1(a) and (b) is the law that governs grant of interlocutory injunctions. Counsel further argued that the conditions for grant of an injunction are now settled as was held in the case of ***Giella vs. Cassman Brown & Company Limited [1973] EA 358***, where the court stated that the Applicant must demonstrate that they have a prima facie case with a probability of success, that if the injunction is not granted, they will suffer irreparable harm and where the court is in doubt it will decide the application on the balance of convenience. Counsel also placed reliance on the cases of ***R.J.R Macdonald vs. Canada (Attorney General)*** cited with approval in ***Paul Gitonga Wanjau vs. Gathuthi Tea Factory Company Ltd & 2 Others [2016] eKLR*** and ***Cyanamid Co. vs. Ethicom Limited [1975] A ER 504*** which upheld the holding in the case of ***Giella vs. Cassman Brown (Supra)***.

13. Counsel also placed reliance on the case of ***Mrao Ltd vs. First American Bank of Kenya & 2 Others [2003] KLR*** where the Court of Appeal described a prima facie case to include a genuine and arguable case where on the material presented before court, which properly directing itself, is bound to conclude that there exists a right which has apparently been infringed upon by the other party, which calls for a rebuttal from the latter. Counsel argued that the Plaintiff/Applicant had demonstrated that they have a prima facie case by attaching to the application documents of ownership of the suit property, notably the letter of allotment, the grant and official search. Counsel contended that although it was deposed for the 1st Defendant that the suit properties title was revoked, no evidence to that effect was provided and that the correspondence between the Plaintiff and the Chief Land Registrar and the National Land Commission does not show anywhere that the Plaintiff's title was revoked. It was argued for the Applicant that indeed on 21st November 2019, the Plaintiff and the Chief Land Registrar and the National Land Commission recorded a consent judgment in ELC JR Case No. 20 of 2017 to reconstruct the Land Register for the suit property, and therefore that there would not have been a reconstruction if the land was not in the Plaintiff's name.

14. It was further submitted for the Applicant that the 1st Defendant did not produce any documents to prove his allegations of revocation of the Plaintiff's title and reallocation of the same to squatters. Relying on the case of ***Winfred Nyamira Maina vs. Peterson Onyiego Gichana [2015] eKLR***, counsel argued that the evidential burden kept shifting and that in the absence of proof of their allegations, the 1st Defendant stood to fail without further evidence. Counsel contended that Article 40 of the Constitution entitles the Applicant to own property and that the state, the 1st Defendant or the alleged squatters have no right to arbitrarily deprive the Applicant of his property. Counsel further argued that the indefeasibility of the Plaintiff's title has not been challenged anywhere. It was further submitted that Section 26 of the Land Registration Act places a duty on this court to recognize that a certificate of title is prima facie evidence that the Plaintiff is the absolute and indefeasible owner of the suit property in absence of evidence of rebuttal. For that proposition counsel relied on the case of ***Peter Kamau vs. Emmanuel Charo Tinga, Malindi Civil Appeal No. 29 of 2016***. Counsel averred that the issues raised by the Plaintiff are weighty matters that will be considered at the trial and urged the court to find that the Applicant had established a prima facie case with a probability of success.

15. It was further submitted for the Applicant that it stands to suffer irreparable injury if injunction orders are not granted pending the trial. Counsel contended that the Plaintiff had demonstrated that the 1st Defendant was selling the suit property to third parties who were unaware that they were not owners of the suit property and therefore that if the injunction is denied, the Plaintiff will lose the suit property. Counsel argued that the loss and injury that may be suffered may not be compensated by damages because of where the suit property is located and its value.

16. On the question of where the balance of convenience tilted, counsel argued that the balance of convenience tilted in favour of the Plaintiff. Reliance was placed on the case of ***Paul Gitonga Wanjau vs. Gathuthi Tea Factory Company Ltd & 2 Others [2016] eKLR***, where the court held that in determining the balance of convenience, the court must consider the injury to be suffered by the Applicant if the injunction is declined against the injury to be suffered by the Respondent if the injunction is granted.

17. Counsel also submitted that equity will not assist a wrong doer and that equity follows the law. Counsel relied on Section 19 of the ELC Act and urged the court to apply the rules of national justice. Counsel argued that by dint of Section 19(2) of the Environment and Land Court Act, this court has inherent jurisdiction to grant the orders sought in the interests of justice. Counsel concluded that acts of trespass on

the part of the 1st Defendant does not confer any proprietary rights on them, and therefore that the Applicant has met the threshold for grant of interlocutory injunctions.

THE 1ST RESPONDENT'S SUBMISSIONS

18. Counsel for the 1st Respondent reiterated the history of the suit property as stated in the 1st Respondent's Replying Affidavit and submitted that the Plaintiff is guilty of non disclosure of material facts as they are aware that their title was revoked and the land reallocated to squatters at the behest of Municipal Council of Mavoko. That the land was resurveyed and reallocated and therefore the suit property does not exist on paper or on the ground.

19. Counsel submitted that the applicant's application amounted to a gamble and a fishing expedition. Counsel argued that the suit land reverted to the government and the same was public land allocated to squatters. Counsel contended that though the application and the suit are directed at the Machakos Land Registrar, the Chief Land Registrar and the Attorney General, the three parties are not in occupation of the land.

20. It was further submitted that the Applicant is not in occupation of the suit land and payment of rent and rates is meant to mislead the court. Counsel relied on Section 9(2) (c) of the Land Act 2012 to argue that the government has power to convert any land from one category to another for public use. Counsel argued that it is not true that the Respondent was selling land to 3rd parties but that it was the government that gave the land to squatters.

21. Counsel argued that the 1st Defendant had produced several survey reports including maps of 1990, 2007 and 2017. Counsel argued that as the suit land does not exist on the ground, the question of trespass does not arise. It was argued for the 1st Defendant that the Applicant had not identified where his land is on the ground as no survey map, and no identification of beacons or boundaries was done and therefore that it will be difficult to enforce the orders sought. Counsel argued that the entire Mlolongo area is fully constructed with buildings and it is not possible to identify the Plaintiffs beacons. Counsel argued that the Plaintiff's title was revoked by a government notice and the concerned parties compensated and the applicant never took possession of the suit land. Counsel argued that the Applicant had not demonstrated a prima facie case to warrant grant of the orders sought and that government land is not subject to trespass. Counsel relied on the case of *Giella vs. Cassman brown (Supra)* to argue that the Applicant had not met the threshold for grant of interlocutory injunction.

22. Reliance was also placed on the case of *Adams & Others vs. Alexander & 2 Others* for the proposition that where there are difficulties in enforcement of injunction, the same ought to be denied. Counsel argued that the Plaintiff has never made any claim for 30 years and the land has been developed by squatters and therefore it will be impossible to implement the orders sought. Counsel referred to the case of *Café Del Sol Ltd vs. Fortune Properties Ltd & Others Nairobi High Court Civil Case No. 168 of 2001*, for the proposition that where a tenant takes too long to apply for injunction he cannot get the orders due to the indulgence. Counsel concluded that the Applicant has not acted in good faith nor disclosed to court what happened between 1991 and 2021 in respect to the suit property and therefore the application ought to be dismissed with costs.

ANALYSIS AND DETERMINATION

23. I have carefully considered the application, the affidavits in support, the replying affidavit, the submissions of parties and the authorities cited. The issue that arise for determination is whether the Plaintiff/Applicant has met the threshold for grant of the orders sought.

24. The law on grant of interlocutory injunctions is provided for in Order 40 Rule 1. The same provides as follows;

“Where in any suit it is proved by affidavit or otherwise –

(a) that any property in dispute in a suit is in danger of being wasted, damaged, or alienated by any party to the suit, or wrongfully sold in execution of a decree; or

(b) that the defendant threatens or intends to remove or dispose of his property in circumstances affording reasonable probability that the plaintiff will or may be obstructed or delayed in the execution if any decree that may be passed against the defendant in the suit,

The court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging alienation, sale, removal or disposition of the property as the court thinks fit until the disposal of the suit or until further orders.

25. Therefore under Order 40 Rule 1 of the Civil Procedure Rules an order of temporary injunction may issue where the court is satisfied that there is a likelihood of the suit property being wasted or alienated before the suit is heard or where there is likelihood that at the conclusion of trial, the Plaintiff may not be able to enforce the decree in his favour due to threats by the defendant to remove or dispose off the suit property.

26. Principles governing grant of interlocutory injunctions are well settled. In the case of *Giella vs. Cassman Brown [1973] EA 358*, it was held as follows;

“The conditions for the grant of interlocutory injunction are now I think well settled in East Africa. First an applicant must show a prima facie case with probability of success. Secondly an interlocutory injunction will not be normally granted unless the applicant might otherwise suffer irreparable injury which would not adequately be compensated by an award of

damages. Thirdly if the court is in doubt it will decide an application on the balance of convenience.”

27. The same principles were upheld by the Court of Appeal in the case of *Nguruman Limited vs. Jan Bonde Nielsen & 2 Others [2014] eKLR*, where it was held as follows;

“In an interlocutory injunction application, the applicant has to satisfy the triple requirements to (a) establishes his case only at a prima facie level, (b) demonstrates irreparable injury if a temporary injunction is not granted, and (c) allay any doubts as to b, by showing that the balance of convenience is in his favour.

These are the Three Pillars on which rests the foundation of any order of injunction interlocutory or permanent. It is established that all the above three conditions and states are to be applied as separate distinct and logical hurdles which the applicant is expected to surmount sequentially.

28. From the decisions on interlocutory injunctions, an applicant must prove the following three conditions,

- (a) He must demonstrate a prima facie case with a probability of success.
- (b) He must demonstrate that if the interlocutory injunction is not granted he stands to suffer irreparable injury that may not be compensated by damages.
- (c) If the court is in doubt, it ought to determine the application on the balance of convenience.

29. The Court of Appeal described a prima facie case in the case of *Mrao Ltd vs. First American Bank of Kenya Ltd [2003] eKLR* as follows;

“In civil cases, it is a case in which, on the material presented to the court a tribunal properly directing itself will conclude that there exists a legal right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter.”

30. Counsel argued that the Plaintiff has a legal right to the suit property under Article 40 of the Constitution and neither the state nor the 1st Defendant nor squatters have any right to deprive them of same arbitrarily. I have looked at the documents presented by the Plaintiff/Applicant and among them are letter of Allotment, the receipt of registration, the grant and the official search of 13th February 2020. The 1st Defendant states that he does not claim ownership of the suit property and that they use only the record keepers of the squatters who were given the suit property. They contend that the Plaintiff’s title was revoked and land resurveyed and reallocated to squatters. No evidence of revocation or reallocation to others was presented by the 1st Defendant. Even the records they allege to be keeping were not disclosed to this court. Since the Plaintiff has evidence of ownership of the suit property while the defendants have no evidence to show that the applicant’s title was revoked or challenged before any court or tribunal, I am satisfied that the Plaintiff has demonstrated that they have a prima facie case with a probability of success.

31. On the question of whether the applicant will suffer irreparable injury if the injunction is not granted, counsel for the applicant argued that the 1st Defendant was in the process of selling the suit property to unsuspecting 3rd parties on the pretext that they were the owners thereof. The 1st Defendant has alleged that the and was given to squatters but has not been candid on his/their role in the alleged allotment of the suit land to the said squatters. Therefore the Applicant’s apprehension that there is a threat to have the suit property sold and alienated has basis. In the case of *Pius Kipchirchir Kogo vs. Frank Kimeli Tenai [2018] eKLR* the court had the following to say in regard to irreparable injury;

“Irreparable injuries means that the injury must be one that cannot be adequately compensated for in damages and that the existence of a prima facie case is not itself sufficient. The applicant should further show that irreparable injury will occur to him if the injunction is not granted and there is no other remedy open to him by which he will protect himself from the consequences of the apprehended injury.”

I am therefore satisfied that if interlocutory injunction is not granted in this matter the Applicant stands to suffer irreparable injury.

32. In the event that I am wrong on the aspect of irreparable injury to be suffered by the Plaintiff, I must consider where the balance of convenience tilts. The applicant stated that he is the proprietor of the suit land and if the same is alienated they may be deprived of their property. The 1st Defendant does not claim ownership of the property only alleging, albeit without proof that the suit property’s title was revoked. In my view the balance of convenience tilts in favour of the Plaintiff/Applicant as they are the ones that will suffer more injury if the interlocutory injunction is not granted than the injury likely to be suffered by the 1st Defendant if the injunction is granted.

33. I have also noted that the Plaintiff has sought the removal of structures buildings, perimeter fence and foundations erected on the suit property. Those are prayers for mandatory injunction which can only be granted in special circumstances at the interlocutory stage. See the cases of *Kenya Breweries Ltd & Another vs. Washington O. Okeya [2002] eKLR* and *Nation Media Group & 2 Others vs. John Harun Mwau [2014] eKLR*.

34. As the Applicant has not in his affidavit shed light on who put up, or when the said structures, buildings and foundations were erected on the suit premises, I am not persuaded that it would be in the interests of justice to grant the orders for removal of those structures at this stage.

35. The prayer for permanent injunction in prayer 8 cannot be granted at the interlocutory stage as this court is yet to hear the evidence in this matter.

36. In the premises the Plaintiff/Applicant's application dated 22nd September 2021 is partially allowed in the following terms;

(1) That pending the hearing and determination of the main suit, an interlocutory injunction order be and is hereby issued restraining the 1st Defendant/Respondent, its employees, servants, agents, purchasers, lessees, lessors and any other person through whom it may act from encroaching, entering, trespassing, seizing, possessing, remaining thereon, or from selling, offering for sale, transferring, leasing or in other way attempting to alienate dispose whatsoever or dispossess the Plaintiffs property known as L.R. No. 11895/12 (Grant Number I.R 55345) situated in Mlolongo in Machakos District in any way detrimental to the interests of the Plaintiff.

(2) That pending the hearing and determination of the main suit, the 2nd and 3rd Defendants/Respondents be and are hereby restrained from issuing certificate of title if any to the 1st Defendant/Respondent, its employees, servants, agents, purchasers, lessees, lessors and any other person in respect to the Plaintiff's property known as L.R. No. 11895/12 (Grant Number I.R. 55345) situated in Mlolongo in Machakos District.

(3) That pending the hearing and determination of the main suit, the 1st, 2nd, 3rd and 4th Defendants/Respondents and their employees, agents, servants, purchasers, lessees, lessors be and are hereby restrained from doing anything with the Plaintiff's property known as L.R. No. 11895/12 (Grant Number I.R. 55345) situated in Mlolongo in Machakos District in any way detrimental to the interest of the Plaintiff.

(4) That the OCPD Athi-River Police Station and OCS Mlolongo Police Station to assist in the enforcement of the Court Orders.

(5) That the costs of this application be awarded to the Applicant.

37. Orders accordingly.

RULING DATED, SIGNED AND DELIVERED AT MACHAKOS VIRTUALLY THIS 9TH DAY OF FEBRUARY 2022 THROUGH MICROSOFT TEAMS VIDEO CONFERENCING PLATFORM

A. NYUKURI

JUDGE

In the presence of:

MS ANYANGO OPIYO HOLDING BRIEF FOR MR. KAKAD FOR THE PLAINTIFF/APPLICANT

MR. BABU FOR THE 1ST DEFENDANT/RESPONDENT

NO APPEARANCE FOR THE 2ND, 3RD AND 4TH DEFENDANTS

MS JOSEPHINE MISIGO – COURT ASSISTANT