



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

HCC 51 OF 2012

JANET KAMOTHO PETER.....PLAINTIFF

VERSUS

PETER KIMATHI.....1ST DEFENDANT

JULIA KANYAMU KARAUKI.....2ND DEFENDANT

JUDGEMENT

In her plaint dated 23.3.2012, the plaintiff prayed for judgment against the 1st and 2nd defendants jointly and severally for:

a) **An order permitting the District Registrars from Meru South/Maara/ Tharaka Districts to visit land parcel Nos. N. THARAKA/ MARIMANTI/ 565 and N. THARAKA/MARIMANTI/571 and open up the road of access to land parcel No. N. THARAKA/MARIMANTI/570 as reflected in the area MAP held at the District Land Registry.**

b) **An order of a permanent injunction restraining both the 1st and 2nd defendants, by themselves, their agents, servants and/or employees or whomsoever else acting on behalf or instructions from blocking, cultivating, erasing or in any other manner whatsoever from tampering with the road of access from the main road to land parcel No.N.THARAKA/MARIMANT/570.**

c) **Costs of this suit and incidentals thereto.**

d) **Any other remedy the court may find fit and just to grant.**

An Interlocutory Judgment was entered for the plaintiff against the defendants on 29.8.12. I am satisfied that all along the defendants were properly served.

Formal proof proceedings took place on 17. 2.2014. The plaintiff told the court that whenever the process servers served the defendants, they would thereafter insult her. She was of the view that they did not respect the court process and felt that that was why they were not in court for the formal proof proceedings.

The plaintiff produced the Title Deed for parcel No. **N.THARAKA/MARIMANTI/570**, measuring 1.14 Ha, showing that she was the registered proprietor. The court confirmed that the land in dispute was registered in the name of the plaintiff.

I find that the plaintiff has formally proved her case.

In the circumstances, judgement is entered against the 1st and 2nd defendants in the following terms:

1. **An order is issued directing the District Land registrar/s Meru South/Maara/Tharaka Districts to visit land parcel Nos. N.THARAKA/MARIMANTI/565 and N.THARAKA/MARIMANTI/ 571 and to open up the road of access to land parcel No. N. THARAKA/MARIMANTI/570 as reflected in the Area Map held at the District Land Registry.**
2. **An order of a permanent injunction is issued restraining both the 1st and 2nd defendants by themselves, their agents, servants and/or employees and whomsoever else acting on their behalf or instructions from blocking, cultivating, erasing or in any other manner whatsoever from tampering with the Road of Access from the main road to land parcel NO. N. THARAKA/MARIMANTI/570.**
3. **Costs are awarded to the plaintiff.**
4. **The government officer in charge of survey in the area where the plaintiff's and the defendants' parcels of land are and the OCS or any other officer in charge of Police matters in the area to assist during the implementation of Order 1 above.**

It is so ordered.

Delivered in Open Court at Meru this 20th day of March, 2014 in the presence of:

Cc. Mwonjaru

Janet Kamotho Peter - Plaintiff Present

P. M. NJOROGE

JUDGE