

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

E & L CASE NO. 165 OF 2013

SALOSI, KIMATHI IRUARE

alias SALESI KIMATHI M'IRWARE.....PLAINTIFF

VERSUS

AGNES THURA.....DEFENDANT

R U L I N G

This application by the plaintiff is dated 18th February, 2014. It seeks orders:

1. **THAT this Application be heard on priority basis.**
2. **THAT this Honourable Court issue an order directing the District Land Registrar in conjunction with the district Surveyor to establish and/or fix the proper boundaries between L.R NO. NKUNE/NGONYI/685 and 604 and file a report to court in respect thereof.**
3. **THAT the costs of this Application be in the cause.**

Prayer 1 is spent.

During hearing interpartes, Mr. Kiambi advocate for the plaintiff, told the court that the application was not opposed. He submitted that the main prayer sought by the application for an order directing the District Land Registrar in conjunction with the District Surveyor to establish and/or fix the proper boundaries between the suit lands would not prejudice the defendant/respondent at all. As the District Land Registrar and the District Surveyor were experts, they would file their report in court.

The Defendant/Respondent opposed the application. She claimed that she had not interfered with the boundary between the suit lands which she submitted had been in existence since 1965. She said that even when her husband died in 2003, there was no complaint regarding the boundary between the suit lands. She told the court that she only decided to fence her boundary after the plaintiff's cows had destroyed her crops. She claimed that when she reported the matter to the plaintiff, he was uncooperative and abusive.

Mr. Kiambi opined that since the defendant had said that she had not interfered with the boundary between the suit lands, it was proper that the application be allowed as this would not prejudice the defendant.

I have considered the submissions of the parties. I am of the opinion that allowing the application will not prejudice the defendant in any way. In the circumstances, the application is allowed. Costs shall be in the cause.

Delivered in Open court at Meru this 8th day of April, 2014 in the presence of:

Cc. Daniel/Christine

Ngunjiri h/b Mbaabu Inoti for plaintiff

Agnes Thura – Defendant

P. M. NJORGE

JUDGE