



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
CIVIL SUIT NO. 101 OF 2010

BETWEEN

**SUSAN KATHAMBI (SUING AS LEGAL
REPRESENTATIVE AND
ADMINISTRATOR OF THE ESTATE OF
THE LATE**

**SILAS KINOTI M'RINGERA S/O
M'IKWINGA.....
PLAINTIFF**

VERSUS

**RINGERA S/O
IKWINGA.....
.1ST DEFENDANT**

**GEDION
MURIUKI.....
.....2ND DEFENDANT**

R U L I N G

By consent it was agreed that the application dated 7th January, 2013 be decided on the basis of the supporting Affidavit sworn by the plaintiff on 7th January, 2013 and the 2nd defendant's Replying Affidavit sworn on 16th January, 2013.

On the face of the Chamber Summons, the applicant stated that the application was premised on Order 1 Rules 10 and 25 of the Civil Procedure Rules, Article 159 (2) of the Constitution of Kenya 2010 and Sections 1A, 1B, 3 and 3A of the Civil Procedure Act. The application sought orders:

- 1. THAT GEDION MURIUKI be enjoined as the second defendant**

in this suit.

2. THAT the costs for and incidental to this application be provided for.

One of the grounds in the Chamber Summons states:

**“1. THAT the said GEDION MURIUKI is acting in cahoots with
the first defendant to evict the plaintiff from her land, destroying
her houses and crops, beating and assaulting her and threatening
to murder the plaintiff.”**

This is a very serious allegation of a Criminal nature. It however does not provide any nexus between the plaintiff and the intended second defendant in this suit.

In his replying affidavit, the second defendant has opposed the application and pointed out that the plaintiff has not shown why she wanted to enjoin him in the suit. He has stated that he was a stranger to the allegations made by the applicant. According to him the applicant merely wanted to inconvenience him by bringing him into a dispute between her and her father-in-law who is the registered owner of the suit land.

Having looked at what the parties have deponed in their affidavits, I have come to the conclusion that he plaintiff has established no legal basis for enjoining the second defendant in this suit. Consequently, the applicant's application dated 7th January, 2013 is hereby dismissed with costs to the second defendant.

Written and Signed at Meru this 6th day of May, 2013.

P. M. NJOROGE

JUDGE

Delivered and signed in Open Court at Meru this.21ST day of June 2013.in the presence of:

P. M. NJOROGI

JUDGE