



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU
CIVIL CASE 62 OF 2010

JOHNSON KINYA NJAGE1ST PLAINTIFF
LUCY WAMBUI MBUGUA2ND PLAINTIFF

VERSUS

LYDIA KARURU.....1ST DEFENDANT
JAMES NYAGA KINYA 2ND DEFENDANT
KENNETH MURITHI KINYUA 3RD DEFENDANT

R U L I N G

This is the Notice of Motion dated 8/2/2012 seeking orders of injunction against the Plaintiffs and others from interfering with the quiet possession and electricity services in land parcel No.KAGAARI/KIGAA/3988 pending the determination of this suit. It’s brought under Order 40 rule 1 and 2 Civil Procedure Rules. They also seek a temporary injunction restraining the Plaintiffs from transferring, selling and alienating and/or charging land parcel No.KAGAARI/KIGAA/3988.

The application is supported by the main ground that the Defendants have been in occupation since birth (at least 2nd and 3rd Defendants). And that the 1st Plaintiff has been threatening to disconnect power from the said premises.

The 2nd Defendant has filed a supporting affidavit in which he says he has re-connected power on the premises.

Upon perusal of the record I do not see the Replying affidavit of the Plaintiffs/Respondents. From the pleadings filed herein the Applicants have been in possession since 2002 subject to confirmation through evidence. The Plaintiffs have not exhibited any certificate of title showing they are the registered owners of the land as this is disputed by the Defendants.

Since there is a dispute over the ownership of the land and the Defendants are in occupation now for about 10 years or so and the 2nd Defendant claims to have developed part of it I do find that it would only be proper that the *Status Quo* remains until this suit is determined. The 2nd Defendant confirms that he

has reconnected the electricity on the premises. The receipt annexed shows he has paid an additional deposit of shs.2,500/=. That prayer has therefore been overtaken by events. I therefore issue a temporary injunction in terms of prayer 3 of the Notice of Motion dated 8/2/2012.

The Plaintiffs/Respondents shall also be restrained from evicting the Defendants/Applicants from the suit land pending the hearing and determination of the suit.

Costs in cause.

DATED, SIGNED AND DELIVERED AT EMBU THIS 20TH DAY OF JUNE 2012.

H.I. ONG'UDI

JUDGE

**In presence of;
M/s Muthoni for Plaintiffs
Mr. Utuku for Defendants
Njue – C/c**