

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ELC NO. 36 OF 2011(FAST TRACK)

WAIG LIMITED.....PLAINTIFF/APPLICANT

V E R S U S

**KENYA POWER & LIGHTING COMPANY
LIMITED.....DEFENDANT/RESPONDENT**

R U L I N G

The application was served but did not receive any response. The Plaintiff has annexed Certificate Title (“JMM 2”) to show it is the registered proprietor of the suit land, that is L.R. No. 10821/52 in Thika Weteithie area. In the supporting affidavit of Jacinta Mary Wanjiru, one of the directors, the Plaintiff states that on 24th January 2011 they found the Defendant had erected pylons in the land with a view to putting power lines. This interference was without notice or authority. A letter written to the Defendant on 28th January 2011 to stop was not acted upon. The Plaintiff states that it has subdivided its land into 57 plots to sell and this interference is chasing away prospective buyers. The suit was brought for permanent injunction, mandatory injunction and/or general damages.

On the uncontroverted material that has been presented by the Plaintiff, I accept that there is *prima facie* case of trespass on, and interfering with, the private property and that has to be restrained. Under sections 23 and 24 of the Registration of Titles Act (Cap. 281) the Plaintiff’s right to the land is absolute and indefeasible. Such right includes the right to possession, occupation, use, develop and quiet enjoyment. On basis of **Giella –Vs- Cassman Brown & Co. Ltd [1973] EA 358**, I grant the application in terms of prayers 3 and 4.

DATED AND DELIVERED AT NAIROBI THIS 11TH DAY OF FEBRUARY 2011

A. O. MUCHELULE

J U D G E