



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ELC NO. 118 OF 2011

**MOHAMED ABDULLE AHMED Alias AHMAD MUHAMAD
ABDULLE.....1ST PLAINTIFF**

**AMINA MOHAMED ALI both t/a WARTS
ENTERPRISES.....2ND PLAINTIFF**

V E R S U S

SIMON

**MBUGUA.....DEFE
NDANT**

R U L I N G

This motion was served on the Defendant who did not respond to it. The averments contained in the affidavit sworn by the 1st Plaintiff were therefore not controverted.

It is the case for the Plaintiffs that by Agreement for Sale (“MAA 3”) dated 1st February 2010 they bought the suit property, that is L.R. No. 1251 Eastleigh Section 3, Nairobi, from one Christopher Githinji Chege for KShs. 1,700,000/= which they fully paid. They obtained a Conveyance (“MAA4”) which was duly registered. There is Certificate of Postal Search (“MAA5”) showing they are the current registered owners of this freehold property which measures 0.1116 acres.

The Plaintiffs took possession and erected a barbed wire fence around it. They wanted to develop the land by putting up residential –cum - commercial building and are in the process of seeking for finance from Housing Finance Company of Kenya. The Defendant, a former Member of Parliament for Kamukunji

Constituency, brought people who stopped the Plaintiffs from accessing the land and pulled down the fence. They wanted to be paid a ransom of KShs.2,000,000/=. The 1st Defendant has sworn that the Defendant and these people have no claim to, or interest in, the suit land. The suit was filed for a permanent injunction, a declaration that the legal owners of the suit land and costs. With the suit was filed the present motion for an interlocutory injunction.

The Plaintiffs have demonstrated that they are the registered owners of the suit land. This registration confers the right to exclusive possession, occupation and use of the land. This right is being interfered with by the Defendant and his agents and this has to be restrained. Considering the principles in **Giella – Vs- Cassman Brown & Co. Ltd [1973] EA 358**, I allow the application in terms of prayers 3, 4 and 5.

DATED AND DELIVERED AT NAIROBI THIS 31ST DAY OF MAY 2011

A. O. MUCHELULE

J U D G E