



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI (MILIMANI LAW COURTS)**

**Environmental & Land Case 326 of 2008**

**MAPENDO INTERNATIONAL.....PLAINTIFF**

**VS.**

**METRA INVESTMENTS LIMITED.....1<sup>ST</sup> DEFENDANT**

**CENTRAL INVESTMENT KENYA LIMITED.....2<sup>ND</sup> DEFENDANT**

**RAHAB KAREI MUKIAMA.....3<sup>RD</sup> DEFENDANT**

**TITUS KARAUKA MUKIAMA.....4<sup>TH</sup> DEFENDANT**

**RULING**

At the centre of the dispute herein is a piece of land title No.LR.3734/1049 in Nairobi. Both the plaintiff and the defendants claim ownership hereof. In what has become common in most disputes of this nature, each party has presented and exhibited a title relating to the said property.

The plaintiff pleads that it is the registered proprietor and has annexed the title to the suit premises. It is its case that the defendant has trespassed thereon.

On the other hand, the defendants have pleaded ownership and possession of the said property amongst themselves.

Alongside the said plaint, an application has been brought by the plaintiff for injunction orders against the defendants.

It is clear from the material before me that there are competing interests by both parties in respect of the same property for which they have annexed title documents. In such a situation, the court shall endeavour to preserve the subject matter in the interest of the contesting parties.

I do not therefore deem it necessary to address the principles of granting an injunction as set out in the case of **Giella vs. Cassman Brown Co. Ltd (1973) EA 358**. Accordingly, I have come to the conclusion that both parties are restrained from doing anything detrimental to the other in respect of LR.

No.3734/1049 being the subject matter herein. This state of affairs shall remain in place until such time that this suit is heard and finalized. The costs shall be in the cause.

Orders accordingly.

*Dated, signed and delivered at Nairobi this 28<sup>th</sup> day of January, 2010.*

**A. MBOGHOLI MSAGHA**

**JUDGE**