



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT ELDORET**

**Civil Suit 53 of 2009**

**BENJAMIN KIPROTICH LANGAT.....1<sup>ST</sup> PLAINTIFF  
NOAH CHEPKOECH.....2<sup>ND</sup> PLAINTIFF  
HOSEA KIPKOSGEI LANGAT.....3<sup>RD</sup> PLAINTIFF  
=VERSUS=  
WILLIAM KOMEN CHERAMBOS.....DEFENDANT**

**R U L I N G**

**Application 15<sup>th</sup> April, 2009 for injunction**

**I. Background**

1. The Plaintiff No.3 and applicant herein Hosea Kipkosgei Langat bought two parcels of land being LR. Uasin Gishu Kikabus Settlement Scheme 1385 measuring 1.850 ha from Plaintiff No. 1 Benjamin Kiprotich Langat and Plaintiff No. 2 Noah Chepkoech respectively for a sum of Kshs 1.050,000/= on the 2<sup>nd</sup> January 2009.
2. The 3<sup>rd</sup> Plaintiff moved on the land but found resistance against the Defendant. The Defendant had entered the land irregularly and as a result, Plaintiff No.3 applicant seeks orders for injunction to restrain the said 3<sup>rd</sup> Defendant from entering the said land.
3. The Defendant William Komen Cherambos entered appearance and filed defence out of protest. In his reply to the allegation he stated that his names were not William Komen Cherambos but William Kiplimo Komen. He further stated that he was the first person allocated with land parcel LR. Uasin Gishu Kipkabus Settlement Scheme plot 342. An unknown person from Kisii one Charles Nyabuti P.O. Box 804 Kisii fraudulently registered his name. All along he has been awaiting to have the registration to be rectified. Instead the Plaintiff No. 3 has come into the land. He filed a counter claim. He resisted the injunction.

**II. Opinion**

4. There is an issue of land passing hands to the 3<sup>rd</sup> Plaintiff due to a wrong registration of one Charles Nyakundi to the Plaintiff's parcel of land. This indeed is a matter of evidence. The Defendant/Respondent has shown through affidavit of neighbours that he had been in occupation of the suit land well over 15 years.
5. To my opinion there requires a status to be maintained whilst the Court hears the parties herein.  
  
The Plaintiff No.3 has been issued with  
  
exparte injunction orders. The Defendant's house has been demolished and it is unclear where he has been living

when the injunction exparte orders persisted for the last 12 months.

6. I am of the opinion that the said Defendant be reinstated on the land and to rebuild his house in the interest of justice.
7. The said Defendant is not to cultivate neither should Plaintiff No. 3 to cultivate or deal with the land without the leave of this Court.
8. The Plaintiff, I further order are to amend their Plaint to include the Defendant's correct names of William Kiplimo Komen alias William Komen Cherambos.
9. Thereafter the issue of enjoining one Charles Nyakundi to this case may be required to be undertaken; the Registrar/Director of the Land Settlement Scheme.
10. I believe Plaintiff 1 and 2 may have been enjoined to this suit because they are the registered owners of land and not Hosea Kipkosgei Langat . All this may be the part of evidence.
11. I accordingly decline to issue orders of injunction. The temporary injunction granted a year ago is set aside.

**In Summary**

12. (a) Injunction to restrain Defendant from the land is refused.
  - (b) Defendant to be only on land only for purpose of reconstructing his house.
  - (c) There will be no cultivation by both parties.
  - (d) That the Respondent given leave to amend the Plaint.
  - (e) That Defendant or Plaintiffs may require enjoining third party including the Director of Land Settlement Schemes.
13. As the Advocate for the Defendant failed to attend Court there will be no costs awarded to him.

**DATED THIS 25<sup>TH</sup> DAY OF MAY 2010 AT ELDORET.**

**M.A. ANG'AWA,  
JUDGE.**

**Advocate:**

- (i) W.K. Kitur Advocate instructed by the firm of M/s J.K. Kiplagat & Co. Advocate for the Plaintiff/Applicant -Present/Absent
- (ii) T. Kiboi Advocate instructed by the firm of M/s Chemitei & Co. Advocate for the Defendant/Respondent – Absent