



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
Civil Case 163 of 2000**

**C.C.M. MITUNE NURSERY SCHOOL THRO'
CHAIRMAN M'IMANYARA M'IKIARA.....PLAINTIFF
VERSUS
REGISTERED TRUSTEES P.C.E.A. MITUNE CHURCH.....DEFENDANT**

RULING

The dispute in this matter relate to parcel number *Igoji/Kianjogu/721*. Both the plaintiff and the defendant claim that they are owners of that parcel of land. They claim that it was allocated to them. When the plaintiff filed this action, it also filed an application for injunction. That application was dated 21st December 2001. After several adjournments of that application, a consent was recorded on 19th March 2001 as follows:-

“By consent, the present status quo be maintained until suit be heard on 19th July 2001.”

On 19th July 2001, the matter was adjourned to 20th August 2001. The orders of *status quo* were not extended on that date. The defendant has now filed an application by chamber summons dated 15th February 2010. The application is brought under Order XXXIX Rules 1, 2, 3 and 9 of the Civil Procedure Rules. The defendant seeks an order of injunction to issue to restrain the plaintiff from interfering with the suit property by being stopped from starting a primary school or by being stopped from interfering with the defendant's property on the said parcel of land. It is clear that all along the plaintiff and the defendant have jointly been using the suit property. The defendant by the present application deponed that the plaintiffs had obtained permission from the District Education Office Imenti South District to start a primary school on the suit property. Thus far the plaintiff has been running a nursery school on the suit land. The parties when the defendant's application came up for hearing went into great depths to prove why an injunction should be given or why it should not be given. As I begun to consider this ruling I realized that this case is fixed for hearing on 29th June 2010. For that reason, I decline to enter into the arena of entertaining the dispute in the depth in which it was argued by the parties. However, having considered the issues that are raised, and because the suit is due for hearing on 29th June 2010, I grant the following orders:-

1. ***The plaintiff is hereby restrained from starting a primary school or from interfering with the moveable properties of the defendant on parcel No. Igoji/Kianjogu/721 until the 29th June 2010 when this case shall be heard.***
2. ***The costs of the chamber summons dated 15th February 2010 shall be in the cause.***

Dated and delivered at Meru this 7th day of May 2010.

MARY KASANGO
JUDGE