



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT ELDORET  
Civil Case 50 of 2010**

**ELIAKIM WASHINGTON  
OLWENI.....PLAINTIFF**

**=VERSUS=**

**WILSON KIBOR MUTAI ARAP SANG.....DEFENDANT**

**RULING**

**Application for injunction dated 23<sup>rd</sup> March 2010.**

**I. Procedure**

1. The delay in hearing this matter since March 2010 was occasioned by the applicant filing this case in the High Court of Kenya at Nakuru being case No. 80 of 2010. The Applicant resides in Nakuru. He has though land in the Eldoret region being LR Uasin Gishu/Ngenyilel Settlement Scheme/448.
2. He alleged to have bought the same in 1971 and prayed that strangers who evaded and cultivated the land be restrained. The Court at Nakuru ordered the file to be transferred and placed before the High Court at Eldoret (Maraga J 29<sup>th</sup> March 2010).
3. The suit was filed on 25<sup>th</sup> March 2010. An application for injunction was applied for against the two Defendants for trespass.
4. This Court ordered that the said application of 25<sup>th</sup> March 2010 be served personally upon the two Defendants. As an abundant of caution, not only were the two served but the administration were also served with the pleadings and or application.
5. The two Defendants failed to appear.

**II. Application 25/3/2010**

6. The Applicant/Plaintiff alleged that sometime in 1971, he bought the parcel of land in question and thereafter placed workers thereon. He was registered sometime in 1998 and obtained a title deed in his name in the year 2000.
7. What was of concern is that in the year 2009, a stranger evaded his land cultivated and thereafter left. The strangers managed to harvest the crops. He came to know later it was the 1<sup>st</sup> Defendant. The 2<sup>nd</sup> Defendant cultivated in the year 2010. It was then that the Plaintiff filed suit and asked for restraining orders.
8. Unfortunately, neither 1<sup>st</sup> and 2<sup>nd</sup> Respondents entered appearance nor filed a reply to the allegations.
9. The Applicant's advocate argued his client holds a title that is indivisible and absolute that cannot be challenged.

**III. Opinion**

10. In the absence of the reply by the two Defendants and in the proof that the Plaintiff holds a title deed that is indivisible and absolute. This Court has a duty to protect the sanctity of the title. The title has

been shown to this Court and to the police.

11. I accordingly grant orders of injunction against the two Defendants as prayed until the determination of the main suit that must be heard.

12. There will be costs to the Applicant.

**DATED THIS 3<sup>RD</sup> DAY OF JUNE, 2010 AT ELDORET.**

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

**JUDGE.**

**Advocate**

- (i) O.H. J. Okeka instructed by the firm of O.H.J. Okeka & Co. Advocate for the Plaintiff/Applicant - present
- (ii) 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Respondents - absent