

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

Civil Case 96 of 2009

EVAN MATHEA KARANJA.....PLAINTIFF

VERSUS

O'L KALOU FARMERS SACCO LTD.....Defendant

RULING

EVANS MATHEKA KARANJA, the plaintiff in this case, claims that on 18th March 2009 M/S Muibau Agencies attached his cattle on instructions of the defendant for a debt owed by his father to the defendant. Contemporaneous with the filing of the suit he applied for an injunction to restrain the defendant from proceeding with the sale of his animals until this suit is heard and determined. Mr. Chege for the plaintiff urged me to allow the application as the plaintiff does not owe any money to the defendant and the attachment has therefore no basis.

Relying on the replying affidavit Miss Muthoni the Secretary of the defendant company argued that the plaintiff's application is intended to shield his father from payment of due and just debts due to the defendant. She contended that the animals were attached from the plaintiff's father's farm and therefore they belonged to the defendant's father.

Ownership of animals cannot be proved by any documents. Other than Miss Muthoni's word there is nothing to prove that the attached animals belong to the plaintiff's father. There is equally nothing to prove that they belong to the plaintiff other than his own word. In the circumstances the order that commends itself to me to issue in this matter is to maintain the status quo until this matter is heard and determined. I therefore allow this application and order that pending the hearing and determination of this suit the defendant by itself, its agents and/or servants are hereby restrained from selling the defendant's attached animals. The plaintiff is also restrained from disposing of those animals until this suit is heard and determined. The costs of this application shall abide the outcome of the suit.

DATED and delivered at Nakuru this 24th day of June, 2009.

D. K. MARAGA

JUDGE.