



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

**Civil Suit 285 of 2009**

**JOSEPH NJUGU MURIUKI.....PLAINTIFF**

**VERSUS**

**JAMES NGARI IBRAHIM GICHOHI.....DEFENDANT**

**RULING**

Both the plaintiff and the defendant were or may still be shareholders of Kieni East Farmers Ltd. They both also claim to have balloted for the piece of land known as **Laikipia/Salama Mukuru Block 4/790**.

The plaintiff obtained title to that piece of land earlier. The defendant claiming the same piece of land filed a claim before Rumuruti Land Dispute Tribunal which after hearing the case decreed the cancellation of the plaintiff's title and ordered that the defendant be issued with title to that piece of land. After the award was confirmed by the subordinate court at Nyahururu the defendant got it implemented and got a title deed issued in his name.

The plaintiff has filed this suit to challenge the Tribunal's said decision. Contemporaneous with the filing of the suit he filed an application for injunction to restrain the defendant from evicting him from the suit land or in any way disposing of it. His counsel, Mr. Karanja, submitted that with the title deed in his hand, the defendant is now threatening to evict the plaintiff from the piece suit of land and may dispose of it thereby complicating the matter. He urged me to allow the application.

The defendant on the other hand opposed the application contending that this is one of the delaying tactics of the plaintiff. He said that the plaintiff's counsel was before the subordinate court at Nyahururu when the award was adopted and should have appealed against it instead of filing this suit. He urged me to dismiss the application so that he may reap the fruits of his decree.

This being an interlocutory application I am not supposed to make any definitive findings as I have not heard the matter. However, having considered the application I find that a substantial issue on the jurisdiction of the Tribunal to grant the order it did has been raised. I am therefore satisfied that the plaintiff has made out a prima facie case with a probability of success. In the circumstances I grant this application and order that pending the hearing and final determination of this suit the defendant by himself, his servants, relatives and/or agents are hereby restrained from going onto or evicting the plaintiff from the suit piece of land or in any way disposing of it. The costs of this application shall be costs in cause. The main case to be heard on 9/3/2010 by which time the parties should have completed discovery.

**DATED and delivered this 17<sup>th</sup> day of November, 2009.**

**D. K. MARAGA**

**JUDGE.**