



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT EMBU**  
**Civil Case 66 of 2007**

**MUGO NDEMERO.....PLAINTIFF**

**VERSUS**

**EDWARD MUGANDA NGARE.....DEFENDANT**

**RULING**

The suit is commenced by way of Originating Summons. Applicant seeks orders under Limitation of Actions Act and a declaration of trust in the alternative.

On 11/5/2007 he filed a Chamber Summons seeking restraining orders against the Defendant in regard to parcel number **Embu/Kithunthiri/1458**, on the grounds that the Applicant has been occupying the said parcel since 1978 and that now defendant is interfering with his use of the said land even threatening eviction and he may sell the land to 3<sup>rd</sup> parties. The application is supported by affidavit with annexures. The application is opposed by Defendant who has filed Replying Affidavit with annexures. It is clear that the plaintiff/Applicant has been in occupation of land since 1978, even today. There is therefore need for dispute to be heard by court. In the circumstances the orders sought are hereby granted in terms of application prayer 2 pending the hearing and determination of this suit.

It is so ordered. Costs in the cause.

Dated this 28<sup>th</sup> November, 2007.

**J. N. KHAMINWA**

**JUDGE**

**28/11/2007**

**Khaminwa – Judge**

**Njue – Clerk**

**Mugo Ndemero present**

**Read in open court.**

**J. N. KHAMINWA**

**JUDGE**