



REPUBLIC OF KENYA



KENYA LAW
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**Guyo v Qunche (Environment & Land Case 005 of 2021)
[2022] KEELC 2832 (KLR) (4 July 2022) (Ruling)**

Neutral citation: [2022] KEELC 2832 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND CASE 005 OF 2021**

PM NJOROGE, J

JULY 4, 2022

BETWEEN

GUYOLE JATTANI GUYO PLAINTIFF

AND

QUNCHE WOGUE QUNCHE DEFENDANT

RULING

1. This Application is dated 6th day of July, 2021 and seeks orders:
 1. That this application be certified urgent and service of the same upon the Respondent be dispensed with in the first instance.
 2. That the Respondent be and is hereby by way of an interim injunction be restrained, whether by Himself or by his servants, agents, employees, invitees and or otherwise whatsoever from disposing, and or evicting, or in any manner dealing, and or wasting, and or partitioning, and or alienating, and or erecting, and/or any constructing of any structure on the suit property Land Reference Number Marsabit/mountain/391 pending the hearing and determination of the instant application.
 3. That OCS Marsabit Police Station to ensure compliance of this Orders.
 4. That the Defendant/Respondents (sic) be and is hereby by way of an interim injunction be restrained, whether by Himself or by his servants, agents, employees, invitees and or otherwise whatsoever from disposing, and or evicting, or in any manner erecting, and/or any constructing of any structure on the suit property Land Reference Number Marsabit/mountain/391 pending the hearing and determination of this suit.
 5. That costs of this application be provided for.



2. The Application is supported by the affidavit of Guyole Jattani Guyo, the Applicant, sworn on 6th July, 2021 and has the following grounds:
 - a) That on the 2nd day of July 2021 at about 11.00 a.m. the Respondent in company of his agents without any colour of right or notice or any justifiable cause trespassed to the Applicant's residential home situated on the suit land Marsabit/mountain/391 assaulted him and maliciously destroyed part of the house and threatened to evict him.
 - b) That on the 5th day of July 2021 the applicant and his agent cut down old assorted fruit trees, miraa and various food crops on the suit land.
 - c) That the Respondent further threatened to evict and dispose off the suit land to a third party with total disregard of the Applicant's interest.
 - d) That the Applicant will suffer irreparably if his application is not certified urgent as he faces destitution unless an order is issued by this Honourable Court prohibiting further dealings and disposition of the suit property aforesaid pending the hearing and determination of this application and suit.
 - e) That the Respondent temporarily entered into the suit property Marsabit/mountain/391 and destroyed part of the Applicant's residential house constructed thereon with clear intention of evicting the Applicant from the suit land with total disregard of the applicant's interest.
3. The Application was canvassed by way of written submissions.
4. From the pleadings and submissions, the Applicant says that he has been occupying the suit land for over 12 years and is, therefore, entitled to its ownership through the doctrine of adverse possession. He claims that the Respondent has tried to evict him and may even dispose of the property if the orders he seeks are not granted. Regarding the assertion by the Respondent that execution of the decree in Marsabit PMCC No. 10 of 2017, had already taken place and that he had obtained possession, the Plaintiff says that he was not a party in that case.
5. The Respondent counters that during the pendency of Marsabit PMCC No. 10 of 2018 the Applicant was under the umbrella of his father Abraham Jattani Guyo who was the Defendant in that case, which he won. He claims to be in possession.
6. I find that the claims made by the parties can only be verified during a fully fledged hearing in the main suit. I therefore, find it difficult to grant the orders sought by the Applicant at this stage. I note that the Hon. Lady Justice Lucy Mbugua, ELC Judge at Meru had given an order for Status Quo on 12th July, 2021. I issue the following orders:
 - a. Prayer 1 is spent.
 - b. Status Quo extant on the date of this ruling be maintained.
 - c. Parties do concurrently comply with order 11 of the Civil Procedure Rules within 30 days of the date of this ruling.
 - d. The suit will be heard on 25th September, 2022.

DELIVERED IN OPEN COURT AT ISIOLO THIS 4TH DAY OF JULY, 2022 IN THE PRESENCE OF:

Court Assistant: Balozi

Qunche Woge Qunche – Defendant



Plaintiff and advocate absent

HON. JUSTICE P. M. NJOROGE

JUDGE

