

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KISUMU

ELC CASE NO. 145 OF 2012

THE BOARD OF TRUSTEES REDEEMED GOSPEL

CHURCH KISUMU.....PLAINTIFF

VERSUS

MUNICIPAL COUNCIL OF KISUMU (THE COUNTY

GOVERNMENT OF KISUMU.....DEFENDANT

RULING

On 28/1/2021, this matter came up for hearing of application dated 6/1/2021, there was no reply by the defendant. The court made orders that the respondent do file a reply within 10 days. Applicant was to file a supplementary affidavit with submission within 7 days. The respondent was to file submissions within 7 days of service. Ruling was slated for today and the interim orders were extended. The respondent has not complied.

I do find that the allegations by the plaintiff have not been controverted that the plaintiff is the registered owner of the suit property Kisumu/Municipal/Block 9/145. The defendant is threatening to demolish the structures on the suit property.

I do find that the Plaintiff has demonstrated a prima facie case with a likelihood of success as she is the owner of the suit property. Moreover the plaintiff is likely to suffer irreparable loss if injunction is not granted as the premises will be demolished.

I do grant orders that an order of injunction restraining the respondents either by themselves, their servants and or agents or anyone whomsoever claiming title, deriving authority or acting on their behalf from entering, Constructing, building erecting, remaining in, occupying/continuing to occupy or trespassing onto the land parcel No. KISUMU/MUNICIPALITY/BLOCK 9/145 pending the hearing and determination of this suit.

DATED AT KISUMU THIS 5th DAY OF MAY, 2021

ANTONY OMBWAYO

JUDGE

This Ruling has been delivered to the parties by electronic mail due to measures restricting court operations due to the COVID-19 pandemic and in the light of the directions issued by his Lordship, the Chief Justice on 15th March 2019.

ANTONY OMBWAYO

JUDGE