



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

MERU ELC CIVIL CASE NO. E017 OF 2021 (OS)

IN THE MATTER OF CLAIM OF TITLE TO LAND BY ADVERSE POSSESSION

AND

IN THE MATTER OF LIMITATION OF ACTIONS ACT CAP 22 SECTION 7, 17, 37 AND 38

BETWEEN

GURACH TADI JALDO.....APPLICANT

AND

HALKANO GALGALLO GUYO.....RESPONDENT

RULING

1. This application states that it has been filed under Order 40 Rule 1 (a) (b), Rule 2 (1) (2), Rule 4(1) of the Civil Procedure Rules, section 3A and 63 (e) of the Civil Procedure Act and all other enabling provisions of the law)
2. The application seeks the following 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 partitioning, and or alienating, and or erecting, and/or any constructing of any structure on the suit property Land Reference Number Marsabit/Mountain/535 pending the hearing and determination of the instant application.
 3. That the Defendant/Respondents 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, or erecting, and / or any constructing of any structure on the suit property Land Reference Number Marsabit/Mountain/535 pending the hearing and determination of this suit.
 4. That OCS Marsabit Police Station to ensure compliance of these orders.
 5. That costs of this application be provided for.
3. The application is supported by the affidavit of Gurach Tadi Jaldo, the applicant and has the following grounds:-
 - a) That on the 15th day of June, 2021 at about 11.00am 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/535 assaulted him and maliciously destroyed part of the house and threatened to evict him.
 - b) 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.
 - c) That the Applicant will suffer irreparably if this 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.

d) That the Respondent temporarily entered into the suit property Marsasbit/Mountain/535 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.

4. The applicant and his lawyer did not come to court when the application was slated for exparte hearing. I cannot understand why the applicant did not file this application in the primary file **Meru ELC Civil Case No. E017 of 2021 (OS)**, unless he has something to hide.

5. Nevertheless, in the greater interest of Justice, Prayer 2 in the application is granted for only 14 days pending interpartes hearing of the application.

6. In the circumstances, the following orders are issued:

a) Prayer 2 is granted for only **14 days pending hearing** of the application by the ELC Court at **Meru on 6th July, 2021**.

b) The applicant is directed to properly serve the application upon the respondent **within 7 days of today**.

Written and delivered in open Court at Chuka this **22nd day of June, 2021** in the presence of:

CA: Ndegwa

Applicant not in court

P. M. NJOROGI,

JUDGE.