



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

EMBU ELC CASE NO. E029 OF 2021 [OS]

SERAH NYOKABI NYOIKEPLAINTIFF

VERSUS

MICHAEL NJERU KAMORI.....DEFENDANT

RULING

1. This application has been brought to court under Order 40 Rules 1(a) & 2, 3 of the Civil Procedure Rules 2010 and Under Section 3A of the Civil Procedure Act and all other enabling provisions of the law.

2. The application seeks the following orders:

a) That the application herein be certified as urgent and service be dispensed with in the first instance.

b) That the defendant whether by himself, his employees, servants, agents and/or any of them or otherwise be restrained by a temporary order of injunction from either, evicting, entering, trespassing, demolishing, cutting, building, or in any other way interfering with the Plaintiff's quiet possession of the whole of land parcel No. Nthawa/Riandu/1194 pending interpartes hearing of this application and/or until further orders of this Honourable Court.

c) That the defendant whether by himself, his employees, servants, agents and/or any of them or otherwise be restrained by a temporary order of injunction from either evicting, entering, trespassing, demolishing, cutting, building, or in any other way interfering with the plaintiff's ownership of land parcel No. Nthawa/Riandu/1194 pending the hearing and determination of this suit.

d) That the costs of this application be awarded to the plaintiff.

3. The application is supported by the affidavit of Serah Nyokabi Nyoike, the applicant, sworn on **23rd July, 2021** and has the following grounds:

a) On 11.7.2021, the Defendant through M/s. Nduku Njuki & Advocates issued the Plaintiff with notice to vacate from the parcel of land known as Nthawa/Riandu/1194 (hereinafter referred to as "the suit land") which she has been in occupation for the past 35 years.

b) That the defendant has illegally and without any colour of right descended on the suit land with unknown people with intention of disposing of the suit land in a bid to forcefully evict the Plaintiff from the suit land.

c) That Plaintiff has been in open user, occupation and possession of the whole of the suit land since 1986 to date.

d) That the defendant's actions are highly injurious and prejudicial to the interest of the Plaintiff.

e) That the Plaintiff is further apprehensive that if this Honourable Court does not grant the orders sought the subject parcel of land may be wasted and alienated beyond his reach and/or may result to blood bath.

f) That the plaintiff stands to suffer irreparable harm unless the Defendant is restrained from his actions.

4. I have perused the application at the exparte stage and I issue the following orders:

i) The application is **NOT** certified urgent **BUT** will be heard on priority basis.

ii) Prayer b is granted pending interpartes hearing of the application.

iii) The plaintiff is ordered to serve the application upon the defendant within the next 14 days.

iv) The application will be heard interpartes on **21st September, 2021.**

Delivered in Chambers at Chuka this **28th day of July, 2021** in the presence of:

CA: Ndegwa

P. M. NJORGE,

JUDGE.