



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC NO. 63 OF 2000

BETHA NDUMBA M'TWARUCHIU.....PLAINTIFF

VERSUS

PAUL WAMBUGU WACHIRA.....1ST DEFENDANT

MWICHWIRI TWO FARMERS COMPANY LTD (TWO)..... 2ND DEFENDANT

RULING

1. The applicant came under certificate of urgency seeking temporary orders of injunction on the basis that he risks eviction yet he has been on the suit land for over 37 years together with his family.
2. The court ordered the two respondents to be served for interpartes hearing on 14.12.2021.
3. The plaintiff has filed a replying affidavit sworn on 10.12.2021 while the 2nd intended defendant has entered appearance and filed a replying affidavit sworn on 14.12.2021.
4. In the said affidavit, Silas Mungatia and his co-directors admit Paul Wambugu Wachira bought land from their member one Francis Mwai Kangangi and confirm he has lived there and is rightfully on his land as per their records.
5. The court is alive to the ruling delivered on 3.5.2021 in which the applicant was allowed to be joined in the suit and the decree reviewed and or set aside.
6. Similarly he has attached copies of recent searches and a draft proposed further amended defence and counterclaim.
7. Counsel for the respondent Mr.Orimba has also confirmed the applicant/defendant is in occupation. In my view the applicant has met the threshold for the grant of temporary orders as per **Mrao Ltd v First American Bank of Kenya Limited and 2 Others [2003] eKLR.**
8. In the premises I allow the application dated 14.11.2021 in terms of prayers 2, 4 & 6. The further amended defence and counterclaim be filed and served within **14 days** from the date hereof.
9. The applicants/defendants to file an undertaking as to costs and damages to the tune of **Kshs. 1,000,000/=** within **7 days** from the date hereof.
10. Given the suit land is situated in Laikipia, I order the file be transferred to the **ELC Nanyuki** for disposal and further orders.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT MERU THIS 14TH DAY OF DECEMBER, 2021

In presence of:

Mr. Mwanzia for applicant

Orimbo for respondents

Court Assistant - Kananu

HON. C.K. NZILI

