



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**ENVIRONMENT AND LAND CASE NO 110 OF 2015**

**ALBERT MPURIA M'ARIMI.....PLAINTIFF/APPLICANT**

**versus**

**GEORGE KAJOGI MURIUKI.....DEFENDANT /RESPONDENT**

**RULING**

This application is dated 4th December,2015. It seeks orders:

1. ***THAT this application be certified as urgent and be heard ex-parte in the first instance.***
2. ***THAT this Honourable Court be pleased to issue an order of temporary injunction restraining the Defendant by himself, his servants, his assigns and representatives from entering upon the Plaintiffs parcel of land L.R. IGOJI/MWERU-11/6 and cutting down trees thereon pending hearing and determination of the suit.***
3. ***THAT this Honourable Court be pleased to issue an order preventing the Defendant by himself, his servants, his assigns, his representatives and or agents from selling and disposing off the felled trees/logs and that the felled trees/logs be preserved at the police station until this application is heard and determined.***
4. ***THAT the O.C.S Igoji Police Station be served with the order to ensure compliance.***
5. ***THAT costs of this application be provided for.***

It is buttressed by the Plaintiff's Supporting Affidavit and has the following grounds:-

- a. ***THAT the Plaintiff is the registered owner of all that parcel of land known as L.R. NO IGOJI/MWERU-11/6 together with all the improvements and Development therein whereas the Defendant owns parcel NO. L.R. IGOJI/MWERU-11/62.***
- b. ***THAT the Plaintiff and the Defendant are neighbours and the Plaintiff has planted many gravellier trees on his parcel which trees are mature.***
- c. ***THAT on the 11th day of October 2015 the Defendant unlawfully and without any color of right trespassed upon the Plaintiff's parcel of land and cut down 47 mature gravellier trees and destroyed his barbed wire fence.***
- d. ***THAT the Plaintiff reported the matter to various authorities such as the area Chief, the D.O, the D.C and the Police Vide OB NO. 15/11/10/2015 and the Defendant was arrested and***

*charged at Nkubu Law Courts, in Criminal Case Number 1363 of 2015 with the offence of malicious damage to property.*

- e. ***THAT** despite making the said reports the Defendant continues to trespass upon the Plaintiff's land and is continuing to destroy his trees and if not restrained by an order of injunction he will wreck havoc on the Plaintiff's Land.*
- f. ***THAT** the situation on the ground is volatile and likely to degenerate into violence if not stopped.*
- g. ***THAT** the trees are in the process of being sold and if an injunction is not issued the Plaintiff will continue to suffer loss and damages that cannot be compensated by way of damages.*
- h. ***THAT** the Plaintiff pray (sic) that the orders sought are granted forthwith.*

Although the Defendant/Respondent had been properly served he failed or refused to appear in Court on 10/2/2016 when the matter was slated for hearing. **I, therefore, find it necessary to allow the application in terms of prayers 2,3 and 4.**

**Costs are awarded to the Plaintiff/Applicant.**

It is so ordered.

**Delivered in open Court at Meru this 10th day of February, 2016 in the presence of:-**

CC: Lilian/Daniel

Joses Kibia for the Applicant

**P.M. NJOROGE**

**JUDGE**