



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
CIVIL APPEAL NO 123 OF 2011

JOEL NTORIBIAPPELLANT

VERSUS

DOMISIANO MURURU.....RESPONDENT

RULING

This application is dated 9th day of November, 2015. It reads:-

APPLICATION FOR INJUNCTION AND MANDATORY INJUNCTION

Take Notice:- that this Honourable Court will be moved on the

day ofat 9:00 O' clock in the afternoon or soon. Thereafter(sic) for hearing of application by the Respondent application(sic) seeking the following orders:-

- 1. That this application be certified urgent and service dispensed with in the first instant.***
- 2. The Honourable Court do issue an order for mandatory injunction compelling the Respondent / Appellant by himself his agents, servants and/or employees to stop cultivating and planting on and /or in whatsoever manner interfering with land parcel No. 1426/ Kianjai Adjudication Section pending the hearing and determination of the instant appeal.***
- 3. Alternatively and/or in addition to the aforesaid this Honourable Court be pleased to issue an order of temporary injunction restraining the Respondent/ Appellant herein by himself, his agents, servant and/or employees from entering upon and cultivating upon land parcel No. 1426/Kianjai Adjudication Section and/or in any other manner interfering with the said land pending the hearing and determination of this appeal.***
- 4. The cost of this application be provided for:-***

Which application is supported by the affidavit of Domisiano Mururu together with the grounds set herein below and those that may be advanced during the hearing hereof:-

GROUND IN SUPPORT:-

i. The Applicant is the legal owner and/or proprietor of land parcel No. 1426/ Kianjai adjudication Section.

ii. Land Parcel No. 1426/Kianjai adjudication Section is the subject matter of the instant appeal.

iii. The Respondent is wrongly illegally and without any colour of right trespassing upon and /or unbuffering (sic) with the subject matter of the subject matter of the instant appeal.

iv. That if orders sought are not granted the applicant is likely to suffer irreparable damages and subject matter of the appeal is bound to be wanted (sic) by the Respondent.

v. The Respondent has wrongly entered into and cultivated upon the said land parcel No. 1426/Kianjai Adjudication Section and has started planting crops there or upon(sic) without Applicant's consent, authority and/or permission.

The parties, by consent, fixed the Application to be heard on 09/02/2016. During the date slated for hearing, the Applicant did not come to Court. The Respondent, however, was ready to proceed.

In the circumstances, **I find it necessary to dismiss the application. I also award costs to the Respondent.**

It is so ordered.

Delivered in open Court at Meru this 9th day of February, 2016 in the presence of:-

CC: Daniel /Lilian

Rimita h/b Carlpeters Mbaabu for Respondent.

P.M. NJOROGE

JUDGE