



**REPUBLIC OF KENYA**

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

**ORIGINATING SUMMONS NO. 37 OF 2016 (OS)**

**IN THE MATTER OF LAND PARCEL NO. ABOTHUGUCHI/GAITU/2897**

**REGISTERED IN THE NAMES OF SACINTA KINYA GITUMA**

SAMSON MBAABU NKARICHIA.....PLAINTIFF

VERSUS

SACINTA KINYA GITUMA.....DEFENDANT

**R U L I N G**

This application is dated 22/04/2016 and seeks orders:-

1. ***THAT this application be certified urgent and be heard ex-parte in the first instance on account of its urgency.***
2. ***THAT this Honourable Court be pleased to grant an order of temporary injunction restraining the Defendant/Respondent by herself, her agents, employees, assigns and/or servants and/or any person acting on her behest from evicting or interfering with the Applicant's quiet user and occupation of parcel No. ABOTHUGUCHI/GAITU/2897 Pending the hearing and determination of this application or further orders of this Court.***
3. ***THAT this Honourable Court be pleased to grant an order of temporary injunction restraining the Defendant/Respondent by herself, her agents, employees, assigns and/or servants and/or any person acting on her behest from evicting or interfering with the Applicant's quiet user and occupation of parcel No. ABOTHUGUCHI/GAITU/2897 pending the hearing and determination of this suit.***
4. ***THAT this Honourable Court be pleased to grant an order of inhibition, against registration of any dealings with the proprietorship interest in parcel No. ABOTHUGUCHI/GAITU/2897 pending the hearing of this application interpartes or further orders of this Court.***
5. ***THAT this Honourable Court be pleased to grant an order of inhibition, against registration of any dealings with the proprietorship interest in parcel No. ABOTHUGUCHI/GAITU/2897 pending the hearing and determination of this suit.***
6. ***THAT the cost of this application be borne by the Defendant/Respondent.***

It is buttressed by the Affidavit of SAMSON MBAABU NKARICHIA and has the following grounds:-

- a. ***THAT the Plaintiff/Applicant is about to be evicted from all that parcel known as ABOTHUGUCHI/GAITU/2897 by the defendants effectively rendering this suit nugatory.***
- b. ***THAT the Plaintiff/ Applicant has been in exclusive , open and uninterrupted occupation of 0.44 Ha of land Parcel now known as No. ABOTHUGUCHI/GAITU/2897 since the year 1992 hence developed a beneficial interest thereto under the doctrine of adverse possession.***
- c. ***THAT any interference with his possession shall occasion him irreparable loss and damages.***
- d. ***THAT the Plaintiff/Applicant has made developments on the suit land.***
- e. ***THAT it is only fair, just and equitable to preserve the suit land to enable the applicant herein to ventilate his cause.***

During Interpartes hearing, the Plaintiff's Advocate told the Court that he had bought the suit land from the Defendant's son in 1992 . The Defendant denied knowledge of the sale of land.

I have carefully considered the facts of this case as proffered at this exparte stage. I issue the following orders:-

1. ***The prayer for Injunction as contained in prayer 3 of the application is denied and, therefore, dismissed.***
2. ***Prayer 5 for inhibition is granted***
3. ***The Plaintiff should fully comply with order 11, CPR, within 30 days of today.***
4. ***The Defendant should fully comply with Order 11, CPR, within 30 days after expiry of the period stipulated for compliance by the Plaintiff.***
5. ***Directions on 13/07/2016.***

it is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 12TH DAY OF MAY, 2016 IN THE PRESENCE OF:-**

CC: Lilian/Daniel

Mrs. Mwanzia for Plaintiff/Applicant

Carlpeters Mbaabu present for Defendant/ Respondent

**P.M. NJOROGE**

**JUDGE**