



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

ENVIRONMENTAL AND LAND CASE NO. 144 OF 2016

JOSHUA KARUTI M'ERIMBA.....PLAINTIFF

VERSUS

ELIZABETH MWOOTHABUAMBI.....1ST DEFENDANT

FRANCIS M'THIRARI.....2ND DEFENDANT

M'MUNGANIA BAIMULA.....3RD DEFENDANT

DISTRICT LAND ADJUDICATION

SETTLEMENT OFFICER, IGEMBE SUB-COUNTY.....4TH DEFENDANT

THE DISTRICT LAND REGISTRAR

IGEMBE SUB-COUNTY.....5TH DEFENDANT

ATTORNEY GENERAL.....6TH DEFENDANT

R U L I N G

1. This application is dated 29/082016 and seeks orders: -

- 1. That the application herein be certified as urgent and be heard exparte in the 1st instance.***
- 2. THAT the Honourable Court be pleased to issue temporary order of injunction restraining the 1st and 2nd defendants themselves, employees, agents, representatives, family or any person acting on their behest from constructing, entering ,dealing or in any other way interfering with the Plaintiff user and occupation of land parcel No. Naathu/Naathu/3325 or part of it referred by the defendants as parcel No. Naathu 4675 pending the hearing and determination of this application or until further orders of the Court.***
- 3. THAT the honourable Court be pleased to issue temporary order of injunction restraining the 1st and 2nd defendants themselves , employees, agents, representatives, family or any other acting on their behest from constructing, entering ,dealing or in any other way interfering with the Plaintiff user and occupation of land parcel No. Naathu/Naathu/3325 on part of it referred by defendants as 4675 parcel No. Naathu/Naathu /4675 pending the hearing and determination of this suit or until further orders of this Court.***
- 4. Costs be in cause.***

2. The Application is supported by the Affidavit of JOSHUA KARUTI M'ERIMBA, the Applicant, and has the following grounds:-

1. THAT the Plaintiff is the beneficial, rightful, the registered and the legal owner of land parcel No. Naathu/Naathu/3325.

2. THAT the Plaintiff got ownership of land parcel No. Naathu/Naathu/3325 from his late father one NTOERIMBA THILANGE who gave him the same in the year early 1990's and he has been using it since then to date.

3. THAT the 1st defendant illegally and fraudulently colluded with the office of the 4th and 5th Defendants into registering the 1st defendant as a joint owner of parcel No. Naathu/Naathu/3325 without the knowledge and consent of the plaintiff.

3. When the Application was slated for interpartes hearing on 13/09/2016, the Defendants/ Respondents were not in Court.

4. Advocate Mutembei for the Applicant told the Court that the parties were properly served with the date for interparties hearing. He referred the Court to the apposite Affidavit of service. He asked the Court to allow the application.

5. In the absence of the Defendants/Respondents and despite serve, the application is deemed allowed.

6. Prayer 3 is granted.

7. Costs shall be in the cause.

8. It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 14TH DAY OF SEPTEMBER, 2016 IN THE PRESENCE OF:-

CC: Lilian /Daniel

Miss Muna h/b Mutembei for Plaintiff

P. M. NJOROGE

JUDGE