



**REPUBLIC OF KENYA**

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

**PETITION 16 OF 2016**

**IN THE MATTER OF PETITION UNDER ARTICLES 22 AND 23 OF THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF INFRINGEMENT OF FUNDAMENTAL FREEDOMS AND RIGHTS OF THE PETITIONER UNDER ARTICLES 19,20,23,24,27,40, 47, AND 50 OF THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF THE PROVISIONS OF SECTION 17,25, 26 AND 27 OF THE LAND CONSOLIDATED ACT (CAP 253) OF THE LAWS OF KENYA.**

**AND**

**IN THE MATTER OF THE ACTION OF THE DISTRICT LAND ADJUDICATION AND SETTLEMENT OFFICER MERU CENTRAL IN ARBITRARILY ORDERING THAT NEW LAND REFERENCE NUMBERS BE ENTERED IN THE REGISTER TO NEW PERSONS AGAINST PETITIONERS LAND PARCELS BE DEMARCATED AND RECORDED FOR STRANGERS WHO ARE JUST TRESPASSERS TO THE PETITIONERS LAND**

**BETWEEN**

**JACOB MAKUYU & 122 OTHERS.....PETITIONERS**

**VERSUS**

**DISTRICT LAND ADJUDICATION AND SETTLEMENT OFFICER**

**IMENTI CENTRAL DISTRICT.....1ST RESPONDENT**

**ATTORNEY GENERAL.....2ND RESPONDENT**

**RULING**

1. This application is dated 27/06/2016 and seeks orders:-

***(1) THAT this Honourable Court be pleased to certify this matter/ application as urgent and be heard on priority basis.***

***(2) THAT this Honourable Court be pleased to issue an order of temporary injunction restraining the respondent from adjudicating , issuing new numbers or any other way dealing with the land parcels in MBWAA “A” ADJUDICATION section contrary to the procedures established under the laws of Kenya and in a manner that violates or threatens to violate fundamental rights and freedoms of the applicants pending the hearing and determination of this application.***

***(3) THAT this Honourable Court be pleased to issue an order of temporary injunction restraining the respondent from adjusting, issuing new numbers or any other way dealing with the land parcels in MBWAA “A” ADJUDICATION section contrary to the procedures established under the laws of Kenya and in a manner that violates or threatens to violate fundamental rights and freedoms of the applicants pending the hearing and determination of the petition.***

***(4) THAT costs of this application be provided for.***

2. The application is supported by the affidavit of JACOB MAKUNYU and has the following grounds:-

***(1) That the applicants are the registered properties of land parcels in MBWAA “A” Adjudication section.***

***(2) That the applicants have since been evicted from their land parcel notwithstanding that they are the rightfully registered proprietors of those land parcels.***

***(3) That the respondents are in the process off issuing new registration numbers to the persons who evicted the applicants from their land parcels without due regard to the procedures well laid out in law.***

***(4) That if not stopped the respondent will permanently deny the applicants what is rightfully theirs and guaranteed by the Constitution of Kenya, 2010.***

***(5) The applicants have already lost all their developments in their land parcels as the invaders have destroyed them as they try to evict them permanently.***

***(6) That further to loss of property the applicants lost their relatives who were killed during the invasion and now the applicants live as internally displaced persons in their country while other people are using their land parcels .***

***(7) That this application if not granted the applicants will suffer irreparable loss and damage.***

***(8) That it is only fair, just and equitable that this application is allowed.***

3. The Application was heard Interpartes on 07/11/2016.

4. Having carefully considered the arguments proffered by the parties, the application is allowed pending hearing and determination of the Petition.

5. The Court notes that the orders granted on Interim Basis on 20/07/2016 are being obeyed. The DLASO, Mr. ALI CHEMASUET, is to be commended for his obeisance to the law .

6. For avoidance of doubt, the DLASO, TIGANIA WEST, MR. ALI CHEMASUET, who is charge of MBWAA “A” ADJUDICATION SECTION and any other person working under him or working under any other DLASO is restrained from adjudicating, issuing new numbers or in any other way dealing with land parcels in MBWAA “A” ADJUDICATION SECTION until this petition is heard and determined.

7. Costs shall be in the cause.

8. The Petitioners to file a supplementary affidavit within 21 days of today and the parties are granted liberal leave to further respond, as and if necessary .

9. Directions on 15/12/2016.

10. It is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 7TH DAY OF NOVEMBER, 2016 IN THE PRESENCE OF:-**

C.A : Daniel/James

D.J Mbaya for the Petitioners

Muriuki for the Petitioners

Kiongo for the Respondents

**P.M. NJOROGE**

**JUDGE**