



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

E & L CASE NO 34 OF 2015

SIMON M EKURUKAPLAINTIFF/APPLICANT

VERSUS

GATURA MARIGU GACWE.....DEFENDANT/RESPONDENT

RULING

This application is dated 11th day of May, 2015. It seeks Orders:-

1. ***THAT*** this Honourable Court be pleased to certify this application urgent, service thereof be dispensed with in the first instance and the same be heard *ex-parte* at the first instance and appropriate orders made accordingly.
2. ***THAT*** this Honourable Court be pleased to issue a temporary order of injunction restraining the Defendant/Respondent by herself her agents, servants and/or employees or whomsoever else acting on the Defendant/Respondent behalf or instructions from cultivating, occupying, moving into alienating, disposing, charging, transferring, constructing or in any other manner whatsoever dealing with and/or interfering with the plaintiff/applicant's possession, occupation and use of land parcel No. THARAKA/NKONDI "A"/1196 pending the hearing and determination of this application *inter-partes* and thereafter pending the hearing and determination of this suit.
3. ***THAT*** the Honourable Court be pleased to issue an order of inhibition, inhibiting the registration of any entries dispositions or any transactions over land parcel No. THARAKA/NKONDI "A"/1196 pending the hearing and determination of this suit.
4. ***THAT*** upon issuance of the said interim orders in prayers No. 2 and 3 here above, the same be served upon the O.C.S GATUNGA POLICE POST for enforcement and also upon the County Land Registrar for registration and compliance thereof.
5. ***THAT*** the costs of this application be costs in the cause.

It has the following grounds:-

- a. ***The Plaintiff/Applicant is the registered owner of that land parcel known and/or described as LR. NO. THARAKA/NKONDI "A"/1196.***
- b. ***The Defendant/Respondent has without any justifiable cause fraudulently collected the title deed for the said land parcel from the lands registry and has refused to surrender the same.***
- c. ***The Defendant/Respondent has now invaded the Plaintiff/Applicant land parcel aforesaid and has commenced cultivation of portions of the same.***
- d. ***The actions by the Defendant/Respondent are illegal fraudulent and unlawful and the same are causing the Plaintiff/Applicant to suffer loss and damage.***
- e. ***This application is made in utmost good faith and the prayers being sought for, if granted, will***

- not in any way prejudice the Defendant/Respondent case, if any.*
- f. *The nature and circumstances of this case are in favour of granting of the orders being sought for by the Plaintiff/Applicant.*

On 08/06/2015 the Respondent was granted 14 days to respond to the application. Interpartes proceedings were to take part today, 14/07/2015. The Respondent's Advocates are not in Court. They have also not opposed the application. In the circumstances, ***the application is allowed.*** **The effect is that Prayers 2, 3, and 4 are granted.**

Costs shall be in the cause.

It is so ordered.

Delivered in Open Court at Meru this 14th day of July, 2015 in the presence of:-

Cc. Daniel /Lilian

Thangicia for Plaintiff/Applicant

P.M.NJOROGE

JUDGE