



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC APPEAL CASE NO.E001 OF 2020

MARIMANTI PM'S ELC.26 OF 2017

PHARES MUNYAMBU RIMBERIA.....1ST APPELLANT/APPLICANT

CHARLES KITHINE RIMBERIA.....2ND APPELLANT/APPLICANT

VERSUS

SEVENTH DAY ADVENTIST CHURCH.....RESPONDENT

RULING

1. This application is dated **15th September, 2020** and seeks orders:

1. That the application be certified urgent and the same be heard ex-parte at first instance.

2. That the honourable court be pleased to issue a temporary order of prim nary injunction to restrict the respondents from selling, disposing, trespassing and building in respect of parcels No. 517, 518 and 422 situated (sic) Karocho Adjudication pending interparties hearing and determination of the application.

3. That the honourable court be pleased to issue a temporary order of prim nary injunction to restrict the respondents from selling, disposing, trespassing and building in respect of parcels No. 517, 518 and 422 situated (sic) Karocho Adjudication pending interparties hearing and determination of the application pending hearing and determination of the suit.

4. That cost of the application be provided for.

2. The application is supported by the affidavit of Phares Munyambu, for the intended appellant, and has the following grounds:

a. That the respondent is in the progress of building of permanent houses.

b. That the trial court did not allow the application to set aside the order of purported consent order.

c. That the orders sought are to ensure justice that prevail as the court did not have the jurisdiction to adjudicate of the suit.

d. That unless the temporary injunction are granted the respondent shall trespass in the suit land and continue to enjoy the illegal and/or irregular consent orders.

e. Then the orders sought are to ensure that the appeal is not rendered nugatory.

3. When the application was slated for exparte hearing on 28.9.2020, the applicants and/or their advocate did not come to court.

4. I issue the following directions:

1. The application is to be properly served upon the respondent within the next 5 days.

2. The application is to be heard interpartes on 14.10.2020

Delivered in open Court at Chuka this 28th day of September, 2020 in the presence of:

CA: Ndegwa

Applicant and Advocate absent

P. M. NJORGE,

JUDGE.