



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**CHUKA ELC CASE NO. 08 OF 2020**

**MAJANI ESTATES LIMITED.....PLAINTIFF/APPLICANT**

**VERSUS**

**MUTHONI NKONGE.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**MURIUKI NDUBI.....2<sup>ND</sup> DEFENDANT/RESPONDENT**

**SAULU NDIGA.....3<sup>RD</sup> DEFENDANT/RESPONDENT**

**KARIBA KANAMPIU.....4<sup>TH</sup> DEFENDANT/RESPONDENT**

**MWIRIGI MIRITI.....5<sup>TH</sup> DEFENDANT/RESPONDENT**

**MUGENDI KAINYATI.....6<sup>TH</sup> DEFENDANT/RESPONDENT**

**PAUL KINYUA RIUNGU.....7<sup>TH</sup> DEFENDANT/RESPONDENT**

**MWITI RIUNGU.....8<sup>TH</sup> DEFENDANT/RESPONDENT**

**BENEDICTINE NJIRU RIUNGU.....9<sup>TH</sup> DEFENDANT/RESPONDENT**

**RULING**

1. This application is dated 5<sup>th</sup> August, 2020 and seeks the following orders:-

1. That the application be certified urgent and be heard ex-parte and service thereof be dispensed with in the first instance.

2. That this honourable court be pleased to issue an order of temporary injunction restraining the defendants/respondents, their siblings, employees, agents, servants, assigns or any other person acting under their directions from working, dealing and/or interfering in any manner whatsoever with **LR NO. MWIMBI/CHOGORIA/599952 and 5953** pending the hearing and determination of this application.

3. That this Honourable court be pleased to issue an order of temporary injunction restraining the defendants/respondents, their siblings employees, agents, servants, assigns or any other person acting under their directions from working, dealing and/or interfering in any manner whatsoever with **LR NO. MWIMBI/CHOGORIA/5951, 5952 and 5953** pending the hearing and determination of the main suit.

4. That costs of this application be provided for.

2. The application is supported by the affidavit of **RONALD MUTUMA MUTAI** and has the following grounds:-

a) That the plaintiff/applicant is the registered owner of **Land Parcel No. MWIMBI/CHOGORIA/5951, 5952 AND 5953**.

b) That the defendants without a colour of right have been interfering with the plaintiff's occupation of the land by chasing away its

agents.

c) That the plaintiff/applicant thought its agent has reported the matter to the police who instead referred the dispute to the area chief who was unable to resolve the same.

d) That the defendants insist and have sworn to interfere with the plaintiff's user of its property unless stopped by a court order.

e) That it is only fair, just and equitable that this application is allowed.

3. The application was heard inter partes on 21<sup>st</sup> September, 2020 and after listening to the parties the court issued the following orders:

a. Interim orders extended in terms of section 63 of the Civil Procedure Act.

b. The Preliminary Objection dated **10<sup>th</sup> September, 2020** is to be heard first and the proponents are granted 7 days to file and serve their submissions and the plaintiff is granted 7 days after receipt of the proponents submissions to respond.

c. Regarding affidavits and other responses, the parties are granted liberal leave to further respond as and if necessary within the next 20 days.

d. In view of the admissions that the 1<sup>st</sup> respondent leaves on the suit land, prayer 2 is varied to allow her to occupy the portion of land she is occupying.

e. Directions to be taken concerning the Preliminary Objection on **12.10.2020**

**Delivered in open court at Chuka this 21<sup>st</sup> day of September, 2020**

in the presence of:

CA: Ndegwa

Mutegi present for the applicant/plaintiff

Muthomi present for the defendants/respondents

**P. M. NJOROGE,**

**JUDGE.**