



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

PETITION NO. 182 OF 2011

**IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL
RIGHTS AND FREEDOMS QUARANTEED THE CONSTITUTION OF KENYA**

BETWEEN

JOSEPH M'ETHARA.....1ST PETITIONER

SILAS KIREA M'ETHARA.....2ND PETITIONER

AND

1. DISTRICT LAND ADJUDICATION AND SETTLEMENT

OFFICER TIGANIA WEST.....1ST RESPONDENT

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

3. MUNGANIA MWITARI.....3RD RESPONDENT

4. M'KUBANIA KIUGA.....4TH RESPONDENT

5. JACOB KIMATHI.....5TH RESPONDENT

6. FRANCIS KUBANIA.....6TH RESPONDENT

7. SHADRACK KANAMPIU.....7TH RESPONDENT

8. BERNARD GATIMBA.....8TH RESPONDENT

RULING

This application is dated 14th February, 2014.

It seeks orders:

(a) THAT this court be pleased to certify this matter as urgent and have it heard exparte in the first instance.

(b) THAT, this honourable court be pleased to issue preservative orders against the 1st, 3rd, 4th, 5th, 6th, 7th, and 8th defendants in terms of an order of temporary injunction by themselves, their agents, assignees or anybody acting on their behest from, entering, interfering with the plaintiffs quiet possession, evicting, changing the registration status of the subject parcels and or restraining the defendants from carrying on fresh survey of a road of access till this matter is heard and determined interparties

(c) THAT, this honourable court be pleased to issue preservative orders against the 1st, 3rd, 4th, 5th, 6th, 7th, and 8th defendants/respondents in terms of an order of temporary injunction by themselves, their agents, assignees, or anybody acting on their behest from entering, interfering with the plaintiffs' quiet possession, evicting, changing the registration status of the subject parcels and or restraining the defendants from carrying on the survey of road of access till this petition is heard and determined.

(d) THAT, this honourable court be pleased to issue a penal warning to the respondents in case of disobedience in the following terms;-

“That if you, the respondents herein by yourselves, your agents, assignees, servant or people acting at your behest do not obey this lawful court order, you will be cited for contempt of court an offence that is punishable by 6 months imprisonment or a fine or both”.

(e) THAT, costs of this application be borne by the respondents.

Prayers (a), (b) and (d) are spent.

The defendants were served but did not come to court on 4.3.2014 for the hearing of this application interpartes. In the circumstances, the application is allowed.

Costs shall be in the cause.

Delivered in open court this 4th day of March, 2014 in the presence of:

Cc. Daniel

Ondari for petitioners/applicants

P. M. NJOROGE

JUDGE