



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

**E & L CASE NO. 84 OF 2014**

**GAICHU MUTHENGI NDUNGUTU.....PLAINTIFF/APPLICANT**

**VERSUS**

**NYUNGU KAIBU KINANGA.....DEFENDANT/RESPONDENT**

**R U L I N G**

This application is dated 27.5.2014 and seeks orders:

1. **That this application be certified as extremely urgent and service of the same be dispensed with at the first instance.**
2. **That the honourable court be pleased to issue an order of inhibition on land parcel No. 264/Marimanti until further orders of the court.**
3. **That the honourable court be pleased to issue an order of temporary injunction against the Defendant restraining them by themselves, their servants, agents, employees or anyone acting on their behest from selling/trespassing/interfering with parcel No. 264/Marimanti pending the hearing and termination of this application.**
4. **That the honourable court be pleased to issue an order of temporary injunction against the Defendants restraining them by themselves, the servants, agents, employees or anyone acting on their behest from selling/trespassing/interfering with parcel No.264/Marimanti pending the hearing and determination of this suit.**
5. **Costs and interest of the application be provided for.**

It is supported by the following grounds:

(a) **THAT the Defendant usurped the parcel of land belonging to the Plaintiff after having hoodwinked him that he would only cultivate on it as he scouted for his to buy, only to merge it with his (the Defendant) parcel that adjoined the one he had borrowed and both parcels registered as parcel No.264/Marimanti.**

(b) **THAT the plaintiff/Applicant has suffered/will suffer irreparably if the said Defendant/Respondent is not stopped from alienating/selling the suit land.**

Prayer 1 is spent. Prayer 2 was granted on interim basis on 29.5.2014 pending hearing of this application.

There is an affidavit of service filed in the court's file. Despite service the defendant has failed to present

himself in court. He has not opposed the application. This notwithstanding, the plaintiff/Applicant admits in his grounds in support of his application that the defendant had merged his land (plaintiff's) with his to create parcel No.264 Marimanti. I, therefore, find it difficult to grant prayer 2 in the application as it will have the effect of restraining the defendant from land that the applicant admits he partly owns.

In the circumstances,

**1. I grant prayer 2 for inhibition**

**2. I decline to grant prayer 2 or to confirm it as prayer 3**

**3. Costs shall be in the cause.**

It is so ordered.

**Delivered in open court at Meru this 14th day of July, 2014 in the presence of**

Cc. Lilian

Otieno C for Plaintiff/Applicant

Defendant/Respondent Absent

**P. M. NJOROGE**

**JUDGE**