



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**

**AT MALINDI**

**ELC CIVIL CASE NO. 112 OF 2014**

**GONA MENZA.....PLAINTIFF/APPLICANT**

**=VERSUS=**

**CHARO WANJE.....DEFENDANT/RESPONDENT**

**R U L I N G**

**Introduction:**

1. The Plaintiff and the Defendant are acting in person. On 16<sup>th</sup> June 2014, the Plaintiff filed an Application seeking for the following orders:

(a) **That Honourable court do grant an injunction restraining the Defendant, by himself, his servants, family members or agents from constructing, trespassing, depriving the Plaintiff's interest, disposing, intermeddling and/or entering into any transaction in respect to the Plaintiff's unregistered piece of land approximately by measurement 100 acres situated at Dololo village, Baricho sub-location in Marafa in any manner interfering with the Plaintiff's right of quit possession pending the hearing and determination of this suit.**

2. According to the Affidavit of the Plaintiff, he is in actual possession of and lives on an unregistered piece of land situated at Dololo village in Marafa having inherited it from his family; that the subject parcel of land measures approximately 100 acres and that without any justification, the Defendant is in the process of constructing a permanent structure on his land.

3. When the Plaintiff appeared before me ex-parte on 17<sup>th</sup> June 2014, I directed the Chief of the area to convene a meeting with the elders in the area and deliberate on the issue of the boundary between the Plaintiff and the Defendant pursuant to the provisions of Article 159 (2) (c) of the Constitution.

4. On 4<sup>th</sup> September 2014, both the Plaintiff and the Defendant appeared before me and requested for more time to allow the elders to deliberate on the issue. I slated the matter for mention on 15<sup>th</sup> October 2014.

5. On 15<sup>th</sup> October 2014, both the Plaintiff and the Defendant presented to this court the deliberations of forty two (elders) dated 11<sup>th</sup> October 2014 with a detailed sketch map showing the boundaries of the Defendant and the Plaintiff.

6. The area in question is an unadjudicated area whose dispute can be handled competently by the elders who understand the customs of the protagonists and the extent of their respective parcels of land.

7. I have looked at the deliberations of the elders of the area, which deliberations were signed by the Area Senior Chief, Bungala Location, Marafa.

8. I have also looked at the sketch map attached on the said report.

9. In the circumstances and considering that both the Plaintiff and the Defendant presented to me the report of the Chief of the area, an indication that they are agreement with the contents of the report, I direct that the Plaintiff and the Defendant should occupy their respective parcels of land as shown in the sketch annexed on the report of 11<sup>th</sup> October 2014 and field in this court on 13<sup>th</sup> October 2014.

10. In the meantime, the Defendant to file his Defence within 14 days and the Plaintiff to fix the matter for hearing in the registry, when oral evidence shall be taken for a final determination to be made by the court.

11. The application dated 16<sup>th</sup> June, 2014 is hereby marked as spent and each party shall bear his own costs.

Dated and delivered in Malindi this 7<sup>th</sup> day of **November**, 2014.

**O. A. Angote**

**Judge**