



REPUBLIC OF KENYA.

IN THE HIGH COURT OF KENYA

AT BUSIA

ELC. NO. 148 OF 2014

RAPHAEL ONDETO.....PLAINTIFF

VERSUS

LUDOFIKA OKUMU.....1ST DEFENDANT

VICTOR OKIDOR.....2ND DEFENDANT

R U L I N G.

RAPHAEL ONDETO, the Applicants, through M/S. D.L. Were & Were company Advocates, filed the notice of motion under certificate of urgency dated 30th June, 2014 against Ludofika Okumu and Victor Ekidor, hereinafter after referred to as 1st and 2nd Respondent. He prays for injunction orders against the Respondents from dealing with land parcel south Teso/Amukura/1370. The application is opposed through the replying affidavit of the 1st Respondent.

I have carefully considered the grounds on the application, the contents of the supporting and replying affidavits and submissions presented during the hearing and find as follows:

1. That the Applicant got registered with the suit land on 5th October, 1987 and was issued with a land certificate on 2nd November, 1987 as confirmed in the annexure marked "RO1" attached to the supporting affidavit .
2. That the Applicant has had several cases over the suit land as detailed in the supporting affidavit from the time he got registered as the proprietor in 1987.
3. That the contention by the Respondents that they have all along lived on the land has not been disputed and it is only fair the main suit be heard before the injunctive orders can be considered as they have a similar effect to the eviction orders in the main suit.
4. That there is nothing to suggest that the Respondents have done or are likely to do anything to the suit land that is different to the way they have been utilizing the suit land and which would change the legal and physical status of the suit land to the detriment of the Applicant.

Therefore the application dated 30th June, 2014 is rejected and dismissed with costs in the cause.

S.M. KIBUNJA,

JUDGE.

DATED AND DELIVERED ON 12TH .DAY OF NOVEMBER, 2014.

IN THE PRESENCE OF;.....N/A..... PLAINTIFF/APPLICANT

.....PRESENT.....1ST DEFENDANT/RESPONDENT

.....PRESENT.....2ND DEFENDANT/RESPONDENT

.....N/A.....PLAINTIFF/APPLICANT'S COUNSEL

JUDGE.