



REPUBLIC OF KENYA

IN THE HIGH COURT

AT MACHAKOS

Environmental & Land Case 107 of 2012

FRANCIS KARIUKI MWANGI

T/A INTERFRANN AFRICAN PLAINTIFF/APPLICANT

VERSUS

THE COUNTY COUNCIL OF OLKEJUADO DEFENDANTS/RESPONDENTS

R U L I N G

In this Notice of Motion dated 5th April 2012, the court has been requested under prayer 5 to grant temporary injunctive orders, pending the hearing and determination of the suit. Under prayer 6, the court has been asked to declare two notices issued by the defendants to be null and void.

The application, though served, is unopposed. In my view, the fact that plaintiffs are the apparent owners of the land in question, they have demonstrated a *prima facie* case with probability of success. They have also demonstrated that if injunction is not granted, they will suffer irreparable damage. If their properties are demolished in the meantime, the damages suffered are not at present quantifiable in terms of damages. I will grant the interlocutory injunction, for the above reasons and since the application is unopposed.

On the prayer requesting that I declare the notices as null and void, in my view, such an order should not be granted at an interlocutory stage. It will have the effect of determining the whole suit which has been commenced by way of a plaint. An order determining the suit substantively should not be issued by the court at an interlocutory stage.

Consequently, I allow the application and grant prayer 5. Costs in the cause.

Dated and delivered at Machakos this 9th day of July 2012.

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George Dulu
Judge

In the presence of:

Mr Mutinda Kimeu h/b for Mr Ngugi for Plaintiff

N/A for Defendant

Nyalo – Court clerk