



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS**

**ELC. CASE NO. 31 OF 2019**

**DANIEL KINYANJUI GITAU & 227 OTHERS...PLAINTIFFS/RESPONDENTS**

**VERSUS**

**MARY RUGURU NJORGE.....DEFENDANT/APPLICANT**

**RULING**

1. In the Notice of Motion dated 21<sup>st</sup> July, 2020, the Plaintiffs have prayed for the following orders:

***a) That the this Honorable Court be pleased to order the preservation and/or maintenance of the status-quo and restrain the Plaintiffs/Respondents together with their servants and/or agents from evicting the Defendant and/or her servants, damaging and/or demolishing the Defendant's structures erected on the suit property known as L.R. No. 7340/34 Ol-Donyo Sabuk situated within Mavoko Municipality and to order the Plaintiffs to comply with the orders of status-quo of this Honourable Court dated 13<sup>th</sup> March, 2020.***

***b) That this Honourable Court be pleased to interpret the purport and meaning of the Orders issued on 13<sup>th</sup> March, 2020 and specifically the order of maintenance of status-quo.***

***c) That the Officer Commanding Mavoko Police Station be directed to supervise and enforce the orders issued herein.***

***d) That costs of this application be borne by the Plaintiffs/Respondents.***

2. The Application is supported by the Affidavit of the Defendant who has deponed that vide its Ruling delivered on 13<sup>th</sup> March, 2020, this court allowed all the prayers sought in the Plaintiffs' Notice of Motion dated 22<sup>nd</sup> March, 2019 which included an order of maintenance and preservation of the *status-quo* pending the hearing and determination of the substantive suit.

3. It was deponed that the court did not order the Plaintiffs to demolish and/or destroy the permanent structures erected by the Defendant on the suit property; that since the issuance of the orders of 13<sup>th</sup> March, 2020, the Plaintiffs have continued unabated to demolish permanent structures developed by the Defendant on the suit property and that the last such demolition took place on 21<sup>st</sup> July, 2020.

4. It was deponed that the Plaintiffs have misinterpreted the orders of the court given on 13<sup>th</sup> March, 2020 which only restrained the Defendant from carrying out any eviction process of the Plaintiffs from the suit property and that the Plaintiffs have instead engaged in a process of demolishing all the permanent structures that had hitherto been erected by the Defendant on the suit property contrary to the orders of the court.

5. According to the Defendant, she is the legal owner of the suit property and it is a travesty of justice for the Plaintiffs to assume that the orders of the court given on 13<sup>th</sup> March, 2020 gave them ownership rights of the suit property with the liberty to demolish her buildings.

6. In its Ruling dated 13<sup>th</sup> March, 2020, this court ordered for the maintenance of the *status quo* in respect of L.R. No. 7340/34 pending the hearing and determination of the suit. In addition, the Defendant was restrained by way of an injunction from evicting the Plaintiffs from the suit property or transferring the suit property pending the hearing of the suit.

7. The Court of Appeal defined what '*status quo*' means in the case of *Shimmers Plaza Limited vs. National Bank of Kenya Limited [2015] eKLR* as follows:

*"Status quo" in normal English parlance means the present situation, the way things stand as at the time the order is made, the existing state of things. It cannot therefore relate to the past or future occurrences or events. We fail to see what can be ambiguous*

*about that order. All it meant was that everything was to remain as it was as at the time that order was given. If there was any transaction of whatever nature that was going on in respect of the land in question, it had to freeze and await the discharging of the Court order. The agreement of sale may have been signed prior to that date, but once the court ordered maintenance of status quo, everything else had to wait.”*

8. The order for the maintenance of *status quo* therefore meant that things were to remain as they were as at the date of the delivery of the Ruling. If the Defendant or the Plaintiffs had already put up structures on the suit property, the said structures were to remain intact pending the hearing and determination of the suit.

9. That being so, the orders of this court do not require any interpretation or clarification. If indeed the Plaintiffs disobeyed the order of *status quo*, then the most logical thing for the Defendant to do is to file an Application for contempt, and not to file an Application seeking for injunctive orders, or for clarification of the court orders.

10. For those reasons, it is my finding that the filing of the Application dated 21<sup>st</sup> July, 2020 was not necessary. The Application is dismissed with no order as to costs.

**DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 27<sup>TH</sup> DAY OF NOVEMBER, 2020.**

**O.A. ANGOTE**

**JUDGE**