



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT KISUMU**

**ELC SUIT NO. 83 OF 2012**

**ARCHDIOCESE OF KISUMU CATHOLIC CHURCH.....PLAINTIFF**

**VERSUS**

**JOSEPH ORIEYA OWUOR.....1<sup>ST</sup> DEFENDANT**

**CHRISTINE ODONGO OSELU.....2<sup>ND</sup> DEFENDANT**

**ALFEUS ODONGO OSELU.....3<sup>RD</sup> DEFENDANT**

**EZEKIEL OKANO OMONDE.....4<sup>TH</sup> DEFENDANT**

**OMONDI OKANO.....5<sup>TH</sup> DEFENDANT**

**JOSEPH AWITI OTULA.....6<sup>TH</sup> DEFENDANT**

**ENOKA ONYANGO AMONDE.....7<sup>TH</sup> DEFENDANT**

**TOM ONG'ELE KABITA.....8<sup>TH</sup> DEFENDANT**

**RULING**

1. Archdiocese of Kisumu Catholic Church, the Plaintiff, filed the notice of motion dated the 31<sup>st</sup> January 2107 seeking for an order of temporary injunction restraining Joseph Oyieya Owuor, Chripine Odongo Oselu, Alfeus Odongo Oselu, Ezekiel Okano Amonde, Omondi Okano, Joseph Awiti Otula, Enoka Onyango Amonde and Tom Ongele Kabita, the Defendants, by themselves, agents or servants from interfering with, trespassing and or disposing off any part of South Nyakach/East Koguta/1777, 1708, 1700, 1712, 1696, 1698, 1718, 1720, 1704, 1706, 1714, 1716, 1710, 1702 and 558 pending the hearing and determination of this suit. The application is based on the seven (7) grounds on its face and is supported by the affidavit sworn by Brother Teles O. Odete, the Plaintiff's administration coordinator, on the 24<sup>th</sup> January 2017.

2. The application is opposed by the Defendants through the grounds of opposition dated the 1<sup>st</sup> November 2017.

3. The application came up for hearing on the 24<sup>th</sup> October 2017 when among others, Counsel for the parties agreed to file and exchange written submissions. The Counsel for the Plaintiff filed their submissions dated the 16<sup>th</sup> March 2018. The matter then came up for mention on the 8<sup>th</sup> October 2018 when the Counsel for the Defendants informed the court that they will not file written submissions but will rely on their filed grounds of opposition.

4. The issues for determination by the court are as follows;

**a) Whether the issues in the application are res judicata.**

**b) Whether the Plaintiff has established a prima facie case with a reasonable probability of success for temporary injunction to issue at this interlocutory stage.**

**c) Who pays the costs of the application.**



**JUDGE**