



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT & LAND COURT OF KENYA**

**AT MILIMANI**

**ELC CASE NO. 1521 OF 2016**

**VERONICA WANGUI ACHUO.....PLAINTIFF/APPLICANT**

**=VERSUS=**

**NAOMI WANJIRU.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**GERALD THIONG'O KANYINGI...2<sup>ND</sup> DEFENDANT/RESPONDENT**

**RULING:**

1. The plaintiff/applicant filed a Notice of Motion dated 9<sup>th</sup> November 2018 in which she sought the following orders:-

**1) Spent**

**2) Spent**

**3) That this Honourable Court be pleased to issue restraining orders, restraining the Defendants/Respondents from allowing and or making any further dealings in respects to Nairobi/Block No.107/1106 plot No.1228 issued by Umoja II Jua Kali Association until this matter is heard and determined.**

**4) That this Honourable Court be pleased to order the OCS Buruburu Police Station, the County Security Agents and the Chief to ensure and enforce compliance with the orders of temporary injunction on trespass and encroachment until the matter is heard inter parties.**

**5) That this Honourable Court be pleased to grant any other order, relief and or further orders or reliefs as it may deem necessary to grant in the interests of justice and fairness.**

**6) That costs of this application be in the cause.**

2. The applicant contends that she is the beneficial owner of Nairobi/ Block 107/1106 plot No.1228 (suit property) which was given to her by *Umoja II Jua Kali Association*. The suit property initially belonged to the 2<sup>nd</sup> respondent who was however dispossessed of the same for non-compliance with requirements of *Umoja II Jua Kali Association*. The re-possessioned plot was then allocated to one Peter Mwaura Ndungu who sold it to the applicant.

3. The applicant contends that she has been paying land rates in respect of the suit property and has even paid survey fees and fees for processing of titles. Sometime in 2006, the 1<sup>st</sup> respondent who is the wife of the wife of the 2<sup>nd</sup> respondent went to the suit property and erected structures on the same. The applicant sought the intervention of the police and members of the Association to no avail. It is on this basis that the applicant has made this application.

4. The application was duly served upon the respondents' advocates who did not file any response to the application. I have considered the application by the applicant and must say at the outset that this application is an abuse of the process of the court. The applicant had filed a similar application dated 5<sup>th</sup> December 2016 which sought orders compelling the respondents to vacate the suit property. This application was fully heard and a ruling dismissing it was delivered on 18<sup>th</sup> October 2017. Instead of setting down this suit for hearing, the applicant has again brought another application which seeks eviction of the respondents through police assistance. These are some of the applications which delay the conclusion of matters. I find no merit in this application which is hereby dismissed with no orders as to costs.

It is so ordered.

**Dated, Signed and delivered at Nairobi on this 14<sup>th</sup> day of February 2019.**

**E.O.OBAGA**

**JUDGE**

In the presence of;-

Mr Mburu for Plaintiff/Applicant

Court Assistant: Hilda

**E.O.OBAGA**

**JUDGE**