

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC. CASE NO. 485 OF 2017

PHILIP NDIRANGU KARANJA.....PLAINTIFF

VERSUS

KIMANI MUCHINA & OTHERS.....DEFENDANTS

RULING

The Plaintiff filed the application dated 21/7/2017 against Kimani Muchina & Others seeking an order of injunction to restrain them from trespassing on, erecting structures or otherwise dealing with the land known as L.R. No. 36/22/V in Mathare (“the Suit Property”) pending hearing of this suit. He swore the affidavit in support of the application in which he states that he is 90 years old and has been possession of the Suit Property. He has been paying rent, rates and other outgoings in respect of the Suit Property. He attached a copy of the indenture showing that he is the owner of the Suit Property having been registered as the owner on 6/12/1966. He also annexed copies of receipts issued by the City Council of Nairobi on account of land and rates payment.

The Plaintiff claims that sometime in July 2017, a group of young men led by the Defendant invaded and trespassed on his land. They entered the Suit Property and erected some structures next to the Plaintiff’s rental houses. Being old and ailing, he sent some people to ask the Defendant to desist from constructing on his land but the Defendant failed to heed his call. The Defendant and the group of young men threatened the Plaintiff’s emissaries with dire consequences if they dared stop them from constructing their structures. The Plaintiff annexed photographs showing the structures erected on the Plaintiffs land.

The Defendant was served, he attended court on 31/7/2017. He came with several other young men to court. He confirmed to the court that he was carrying out a chicken breeding project on the Suit Property in conjunction with the other young men as a youth empowerment endeavor. He sought time to file his response to bring on board the other parties with whom he is pursuing the chicken breeding venture. He stated that they are over 100 in number. He did not file his response and did not attend court on 16/10/2017 when the application for injunction was argued.

The court is satisfied that the Plaintiff has a *prima facie* case against the Defendant and the other persons who have invaded his land and built structures for the chicken breeding project. The court grants an order of injunction to restrain the Defendant and the youth that he works with from dealing with L.R. No. 36/22/V in Mathare Nairobi pending hearing and determination of the suit. The Plaintiff is awarded the costs of this application.

Dated and delivered at Nairobi this 25th day of January 2018.

K. BOR

JUDGE

In the presence of: -

Mr. Kamata for the Plaintiff

No appearance for the Defendant

Mr. J. Okumu- Court Assistant