



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC CASE NO. 194 OF 2017

GACHWE MBUI.....PLAINTIFF

VERSUS

MARITHA MURUGI.....DEFENDANT

RULING

1. The plaintiff's advocate made a request for interlocutory judgment against the defendant dated **6th October, 2017**. It was filed on **10th October, 2017**. The request is in the following terms:

REQUEST FOR INTERLOCUTORY JUDGMENT AGAINST THE DEFENDANT UNDER ORDER 10 (RULE 6) OF THE CIVIL PROCEDURE RULES (CAP 21)

The plaintiff requests for judgment against the defendant herein who has failed to appear or file her statement of defence within the stipulated time.

This request is for judgment for interlocutory judgment as hereunder:-

- a. An Order for eviction and permanent injunction to restrain the defendant whether by herself, her family members, agents, servants, representatives, employees, and/or anybody else acting or claiming on her behalf from trespassing, constructing any structures, dealing, cultivating and fencing or in any way interfering with the plaintiff's peaceful use and enjoyment of land parcel comprised of 4 acres of land situate at Ngaani in Kanjoro location within Tharaka North District in any manner whatsoever.
- b. Costs of this suit and interests thereon.
- c. Any other or better relief that this court may deem fit and just to grant.

DATED AT MERU THIS 6TH DAY OF OCTOBER, 2017

For: JOHN MUTHOMI & CO.

ADVOCATES FOR THE PLAINTIFF

2. The orders sought by the plaintiff in the plaint are:

1. An order of eviction and permanent injunction to restrain the defendant whether by herself, her family members, agents, servants, representatives, employees, and/or anybody else acting or claiming on her behalf from trespassing, constructing any structures, dealing, cultivating and fencing or in any way interfering with the plaintiff's peaceful use and enjoyment of land parcel comprised of 4 acres of land situate at Ngaani in Kanjoro location within Tharaka North District in any manner whatsoever.
2. Costs of this suit and interests thereon.
3. Any other or better relief that this court may deem fit and just to grant.

3. Judgment can only be entered in terms of order 10 Rule 6 of the Civil Procedure Rules where the claim is for:

a) Pecuniary damages only

b) Detention of goods with or without a claim for pecuniary damages.

4. The claim in the plaint in this case does not fall within the purview envisaged by Order 10 Rule 6 of the Civil Procedure Rules.

5. In the circumstances, the plaintiff's request is denied.

6. There is no order regarding costs.

7. It is so ordered

Delivered in open court at Chuka this 21st day of February, 2018 in the presence of:

CA: Ndegwa

Parties not present

P.M. NJORGE

JUDGE