



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

MILIMANI LAW COURTS

ELC NO.1017 OF 2016

ANNAH MWIHAKE KAMAU.....PLAINTIFF/APPLICANT

=VERSUS=

PASTOR KEN.....1ST DEFENDANT

DOMINIC GATHECHA KINYUA.....2ND DEFENDANT

AND

LUCKY SUMMER ESTATE LIMITED.....INTERESTED PARTY

RULING

1. This is a Ruling in respect of an application dated 22nd August 2016, filed by the plaintiff/applicant. The application was duly served upon the respondents but none of them filed a response to the same. The application seeks injunctive orders against the defendants/respondents.

2. The applicant contends that she is the beneficial owner of LR 31 Ruaraka Plot 666 (R 690) (suit property). The applicant purchased the suit property from one Sammy Njihia Karanja who had purchased the same from Lucky Summer Estate Limited who is named as the interested party herein.

3. Upon purchase of the suit property she paid the requisite money upon which the records held by the interested party were changed to reflect her name as owner of the suit property. She was issued with share certificate in respect of the suit property. The respondents trespassed into the suit property in the year 2016 and deposited building materials on it and started digging a foundation on the same. She moved to court and obtained temporary injunction pending hearing and determination of the application.

4. This being an application for injunction the only issue for determination is whether the applicant has demonstrated that she has a prima facie case with probability of success. I have perused the documents annexed to the supporting affidavit. The documents show that the applicant had the suit property transferred from **Sammy Njihia Karanja** to her name on 9/2/2016. She was issued with a share certificate on 24th February 2016. The documents further show that prior to the transfer, the plot documents were in the name of **Sammy Njihia Karanja**. There is no evidence to controvert the evidence of the applicant. I find that the applicant has demonstrated that she has a prima facie case. I therefore grant the following orders:-

a. A temporary order of injunction restraining the defendants, their servants, employees, agents, assigns or any other person claiming under them or through them from committing acts of trespass and further digging of trenches and/or depositing building materials and or interfering with the plaintiff's enjoyment and possession of LR 31 Ruaraka plot No .666 (R 690) pending hearing and determination of this suit.

b. The defendants shall bear the costs of this application.

It is so ordered.

Dated, Signed and delivered at Nairobi on this 19th day of March 2018.

E.O.OBAGA

JUDGE

In the absence of parties who were aware of the date and time of delivery of Ruling.

Court Assistant: Kevin

E.O.OBAGA

JUDGE