



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAROK

ELC CAUSE NO. 585 OF 2017

IBRAHIM NYAMBARE KING'OINA

ROBERT ONSOMU

GIDEON MOGAKA NYABANDO

(Suing as the chairman, secretary, and treasurer

of Bogetuitu famers union aka

Gobetutu co-operative society).....PLAINTIFFS

-Versus-

PENINAH NABAALA.....1ST DEFENDANT

CHARLES NABAALA.....2ND DEFENDANT

RULING

Having read the Application before me and the submissions filed by the parties I find that the Plaintiffs' have established a prima facie case as laid down in the case of **GIELLA –VERSUS- CASSMAN BROWN**. I do find that from the Application the issues that are contested by the parties can only be determined at a full hearing where evidence will be called and the witness subjected to cross- examination to test the veracity of those assertion.

In the circumstance I will allow the application dated 11th December, 2017 in terms of prayers 3 and 5. I decline to grant prayer 2 and 4 as they are final orders that can be granted at this interlocutory stage.

Costs of the Application in the cause.

Orders accordingly.

DATED, SIGNED and DELIVERED in open court at NAROK on this 9th day of MARCH, 2018

Mohammed Noor Kullow

Judge

9/3/18

In the presence of:

Mr Mitiambo for the Plaintiff/Applicant

Mr Kamwaro for the Defendant/Respondent

CA:Chuma

Mohamed Noor Kullow

Judge

9/3/18