



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAROK**

**ELC CAUSE NO. 586B OF 2017**

**JOSEPHINE KIRAMATISHO TEEKA.....1<sup>ST</sup> PLAINTIFF**

**MARY NDONAISHI TEEKA.....2<sup>ND</sup> PLAINTIFF**

**VERONICAH WANGOI TEEKA.....3<sup>RD</sup> PLAINTIFF**

**-VERSUS**

**ROBERT MAYIEKA NYANKUNDI.....1<sup>ST</sup> DEFENDANT**

**SAMWEL ONDIEKI NYANDISI.....2<sup>ND</sup> DEFENDANT**

**RULING**

The Application before me is the Notice of Motion dated 14<sup>th</sup> December, 2017 seeking interlia orders of injunction restraining the Defendants from trespassing, encroaching, or interfering with the Applicants' occupation and possession of land parcel **NO CIS MARA/NKOBEN/14** hereinafter called the suit property. The Applicant further sought that the OCS Melelo Police Station do enforce the orders sought.

The Application based on the grounds contained is the same to which the Applicant states that he is the legal and beneficial owner of the suit land and that the Respondents have encroached on the land without any authority and when the Plaintiff attempted to access the land has been faced with hostility and violence and unless the orders sought are granted he will suffer loss.

The Application was further supported by the Affidavit of the 1<sup>st</sup> Applicant where she deponed and expounded on the grounds stated hereinabove to the affidavit she has annexed a copy of certificate of title to land. She further stated that the parcel of land belonged to her late husband who secured a loan to the property as security and he passed on without completing the payment of the loan. She says she purchased the land from the Bank when it was auctioned and the Respondent have encroached and trespassed on the land and thus interfered with her exclusive quite enjoyment and occupation of the same.

The Application was opposed by the Respondents who filed a Replying Affidavit.

When the application came before me for hearing the parties' agreed to dispose off the Application by way of written submissions and both parties filed the same.

I have read the Application and the submissions filed and at this stage what is there for me to determine is whether the plaintiff has established a prima facie case with probability of success and whether damages will be adequate enough.

From the pleadings the Applicants have demonstrated to me that the suit land is registered in their name and she have annexed a copy of the title to the land.

Being the registered owner the Applicant is apprehensive that unless the Respondents are restrained they will be unable to reap the benefits from the suit property. The title of the Applicants remain unchallenged and in view of the above I find that the Plaintiff/Applicant has established a prima facie case with probability of success and in the upshot of the foregoing I will allow the Notice of Motion dated 14<sup>th</sup> December, 2017 and costs of the application be in the cause.

**DATED, SIGNED and DELIVERED in open court at NAROK on this 20<sup>th</sup> day of APRIL, 2018**

**MOHAMMED NOOR KULLOW**

**JUDGE**

**20/4/2018**

In the presence of:

CA: Chuma

Mr Kamwaro for the applicant

Respondent in person

**MOHAMMED NOOR KULLOW**

**JUDGE**

**20/4/2018**