

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA

ELC NO. 408 OF 2017

ZAKAYO KWENDO AGOI.....PLAINTIFF/APPLICANT

VERSUS

BENSON OCHUNGA AMBOKO.....DEFENDANT/RESPONDENT

RULING

This application is dated 14th February 2018 and seeks the following orders;

1. That the Land Registrar Vihiga County and the District Surveyor Vihiga do visit L.R. W/Bunyore/Embali/2600 and survey the same and open access road to the plaintiff's land L.R. W/Bunyore/Embali/2600.
2. That the plaintiff will provide the costs.

The plaintiff submitted that the court delivered its judgment herein in his favour on 8th February, 2018 restraining the defendant herein from entering upon, trespassing, working on, tilting, or in any manner dealing or interfering with his parcel of land No. W/Bunyore/Embali/2600. That the defendant has refused to honour the order issued by this honourable court and instead has uprooted the beacons demarcating the boundary and closed the access road to his piece of land. That the assistance of this court is necessary by ordering the Land Registrar and Land Surveyor Vihiga County visit the land parcel W/Bunyore/Embali/2600 to demarcate the common boundary and open the access road as surveyed by the government before. That the matter is already concluded except implementation of the judgment. That the orders sought herein will assist in a long way bring an end as this matter is determined. That it will be in the interest of justice to allow this application.

The defendant/respondent was served but failed to attend court or file any papers in opposition. This court has considered the applicant's submissions. The application is based on the grounds that, the court delivered its judgment on 8th February, 2018 restraining the respondent herein from interfering with L.R. W/Bunyore/Embali/2600. That the defendant has not complied with the orders of injunction. That the respondent has gone further and uprooted all beacons and closed the access road to the plaintiff's land. That it is for the interest of justice that the orders prayed for be issued. That the defendant stands to lose nothing by granting the orders sought. I find that this application has merit and I grant the following orders;

1. That the Land Registrar Vihiga County and the District Surveyor Vihiga do visit L.R. W/Bunyore/Embali/2600 and survey the same and open access road to the plaintiff's land L.R. W/Bunyore/Embali/2600.
2. That the plaintiff will provide the costs.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KAKAMEGA IN OPEN COURT THIS 22ND DAY OF MAY 2018.

N.A. MATHEKA

JUDGE