

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

E.L.C. SUIT NO. 749 OF 2017

LAKE OIL LIMITED.....PLAINTIFF

VERSUS

VOI SYSTEMS LIMITED.....1ST DEFENDANT

REGENT AUCTIONEERS.....2ND DEFENDANT

RULING

Through the application dated 11/12/2017, the Plaintiff seeks an injunction to restrain the Defendants from trespassing, taking possession, wasting, damaging, stock taking or in any manner interfering with its quiet possession of L.R. No. 209/7750/2 and L.R. No. 1/1338 (Original 1/933/2. Vol. N100, Folio 57/2, File 27839) (“the Suit Property”) or any property of the Plaintiff including the improvements within the Suit Property until this suit is heard and determined.

The application is supported by the affidavit of Gurram V. Rama, The Plaintiff’s Regional Manager sworn on 11/12/2017. The Plaintiff avers that it is the legal owner of the Suit Property. L.R. No. 209/7750/2 which has the petroleum depot and serves as its head office is situated on Yarrow Road, off Nanyuki Road at Industrial Area while its service station is situated on L.R. No. 1/1338 (original 1/933/2. Vol N.100 Folio 57/2, File 27839) at Yaya Centre in Kilimani Area.

On 9/12/2017 some unknown persons went to the Plaintiff’s head office at the depot and dropped a letter dated 7/12/2017 from the 1st Defendant directing the 2nd Defendant to secure the sites and provide security for a smooth takeover of the two sites. The letter alleged that the 1st Defendant had taken legal possession of the Suit Property on the presumption that they belonged to Hashi Energy Limited. The takeover was to take effect on 9/12/2017 at 12.00 hours. The Plaintiff avers that it neither knows the Defendants nor has it ever had any dealings with them. It would be wrong for the Defendants to disrupt its business yet it is in occupation of the Suit Property as the legal owner. The Plaintiff moved the court seeking an injunction since its core business was under threat of disruption and takeover by the Defendants and it stands to suffer losses in millions of shillings.

The Plaintiff produced a copy of the agreement dated 23/9/2016 vide which Hashi Energy Limited agreed to sell the Suit Property to it. It also produced a copy of the certificate of title confirming that the Suit Property was transferred to the Plaintiff on 18/5/2017 and it charged it on the same date to Commercial Bank of Africa Limited. The Plaintiff also produced a copy of the agreement through which Hashi Energy limited sold it the retail business on the Suit Property. This included several retail stations across the country.

The Plaintiff was unable to trace the 1st Defendant for service and obtained orders to serve the Defendant by an advertisement which was carried in *The Standard* of 11/4/2018.

The court is satisfied that the Plaintiff has a *prima facie* case against the Defendants on a balance of probabilities, and grants prayer 3 of the application dated 11/12/2017 pending hearing and determination of this suit.

Dated and delivered at Nairobi this 21st day of May 2018.

K. BOR

JUDGE

In the presence of: -

Mr. V. Owuor- Court Assistant

No appearance for the Plaintiff and Defendant