



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 500 OF 2017

SAIPEI NAREIYO LEMAYIAN.....1ST PLAINTIFF

NENGOE ENE MAINGUSI.....2ND PLAINTIFF

ANDREW AHO.....3RD PLAINTIFF

-VERSUS-

LAND REGISTRAR (KILGORIS).....1ST DEFENDANT

OLOIRIEN GROUP RANCH.....2ND DEFENDANT

RULING

The Application before me is the Notice of Motion dated 13th July, 2017 where the Applicant seeks for orders that the 2nd Respondent be ordered to provide to the Applicant the green card of land title No. TRANS MARA/ OLOIRIEN/24 and an order restraining the 1st and 2nd Respondents from creating access roads, alienating, demarcating and leasing or in any manner interfering with the land parcel No. TRANS MARA /OLOIRIEN/24.

The Application was based on the grounds that the 1st and 2nd Applicants are the registered proprietors of the suit land and the 1st and 2nd Respondents have been creating access road, easements, demarcation and the Applicants are apprehensive that the Respondents actions will result in demolition of houses and they will suffer irreparable loss and damages.

The Application was supported by the Affidavit of Andrew Aho who deponed that he has the authority to swear the Affidavit and that he together with his co-applicants are apprehensive that since the Respondents are creating access roads, demarcation and other easements on the Applicants land Parcel No. TRANS MARA/ OLOIRIEN/24.

The Applicant avers that he has a lease of about 25 years on the land.

The Application was opposed by the 2nd Respondent by way of a Replying Affidavit sworn by Julius Ole Mokita who is the secretary to the 2nd Respondent. The 2nd Respondent avers that at all material times they have remained within the confines of the parcel of land and the boundaries separating the two parcels of land TRANS MARA/OLOIRIEN/24 and 1 is separated by a road and that the 2nd Defendant has no interest whatsoever on encroaching on the Plaintiff's land.

I have read the Application before me and the submissions by counsel for the parties and the issue for determination at this interlocutory stage is whether the Applicants have satisfied their conditions for grant of an injunction.

From the pleadings it is not in dispute that the registration was done on the parcel of land known as TRANS MARA/OLOIRIEN/24 and it is also not in dispute that the Respondents are currently carrying out various activities such as demarcation of boundaries, easements and creating access roads which by their nature are intensive and I find that the Applicant is apprehensive and in the circumstance I am satisfied that the Applicants have established a prima facie case with a probability of success.

Secondly, if the Respondents continue carrying on the aforesaid exercise it is my finding that the damages will not be easily quantifiable as to access the damages that the Applicant will suffer.

In view of the above, it is my finding that the Applicant has established a prima facie case for the grant of the orders sought and I therefore grant order in terms of prayer 4 and 5 of the Notice of Motion dated 13th July, 2017.

Costs in the cause.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **17th day of October, 2018.**

Mohamed N. Kullow

Judge

17/10/18

In the presence of:

Mr Yenko holding brief for Mr O.M. Otieno for 2nd Respondent

N/A for the Applicant

CA:Chuma