



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO.265 OF 2016

JOHN MUTHEE NGUNJIRIPLAINTIFF

VERSUS

ALI IBRAHIMDEFENDANT

RULING

(Application for injunction; application not opposed; plaintiff being owner of suit premises; defendant interfering with the same; no right demonstrated by defendant; application allowed)

1. This suit was commenced by way of a plaint that was filed on 19 July 2016. The plaintiff has pleaded that he is the registered proprietor of the land parcel Gilgil/Gilgil Block 1/26307 (Kikopey) which land he is currently subdividing. It is pleaded that on 13 July 2016, the defendant without any lawful justification, forced his livestock into the suit land claiming that he has a right over the same and he even proceeded to assault the plaintiff. In this suit, the plaintiff wants the defendant permanently restrained from the suit land.

2. Together with the plaint, the plaintiff filed an application seeking to have the defendant restrained from the suit land by an order of injunction pending hearing and determination of the case. It is that application which is the subject of this ruling. Despite being duly served, the defendant has not entered appearance and has not responded to the application.

3. The only material that I have is therefore that presented by the plaintiff. In his supporting affidavit, the plaintiff has displayed his title deed and a search certificate to indicate that he owns the suit property. Prima facie, the plaintiff has demonstrated that he is the owner of the suit land. The defendant has not brought forth anything to show that he has any rights over the property in dispute.

4. I am of the opinion that the plaintiff has laid out a prima facie case with a probability of success and is entitled to the injunction sought. If the order is not issued, the defendant may proceed to graze his livestock or utilize the suit land in other ways which will waste the land and cause harm to the plaintiff.

5. I allow this application, and pending the hearing and determination of this case, the defendant and/or his servants/agents/assigns, is hereby restrained from entering, being upon, grazing livestock, or in any other way interfering with the plaintiff's possession of the land parcel Gilgil/Gilgil Block 1/26307 or with any of its subdivisions.

6. The plaintiff shall also have the costs of this application.

7. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 15th day of February 2017.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU

In presence of :

Ms. Amulabu holding brief for Mr. Geoffrey Otieno for the plaintiff/applicant.

Court Assistant : Nelima

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU