



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET**

**E & L CASE NO. 346 OF 2013**

**SAMSON K. A. TIM.....APPLICANT**

**VERSUS**

**GRACE KIMOI BITTOK.....1<sup>ST</sup> RESPONDENT**

**COLLINS K. BITTOK.....2<sup>ND</sup> RESPONDENT**

**ELVIS K. BITTOK.....3<sup>RD</sup> RESPONDENT**

**NELSON O. ODHIAMBO .....4<sup>TH</sup> RESPONDENT**

**HON. ATTORNEY GENERAL.....5<sup>TH</sup> RESPONDENT**

**RULING**

The application before court is dated 16.1.2017. The applicant seeks orders that this court to direct the Officer Commanding Eldama Ravine Police Station to assist in the enforcement of the orders dated 30.9.2014 and subsequent orders dated 25.11.2015 affirming the prior orders. The application is based on grounds that the plaintiff is the bonafide registered owner of the suit property L.R. NO. LEMBUS/TORONGO/790, 791, 792 and 721 respectively. That the respondents have forcefully entered into the plaintiff's/Applicant's parcel of L.R. NO. LEMBUS/TORONGO/790 and sub-divided the same into three portions ignoring the Court orders issued by this Honourable court. That it is in the interest of justice that the orders sought is granted. That this application is brought in good faith and in the interest of justice. The same is supported by the affidavit of Samson K. A. Tim who states that the orders were granted by this honourable court on 30<sup>th</sup> day of September, 2014 but all along, the respondents have disobeyed. That this honourable court's orders were affirmed on the 25<sup>th</sup> day of November, 2015. That the respondent blatantly breached the orders of the court and a contempt motion filed on the 21<sup>st</sup> day of January, 2016 is yet to be determined. That the application for the contempt of the court orders is pending before this Honourable Court for Ruling.

That the respondents have further gone back to the land and caused more damage by demarcating/sub-dividing the land known as LEMBUS/TORONGO/790 into three portions and have dangerously become wild to the plaintiff.

That on the 28<sup>th</sup> day of December, 2016, the 1<sup>st</sup> respondent directed her sons namely Collins K. Bittok, Alvis K. Bitto, 2<sup>nd</sup> and 3<sup>rd</sup> respondent including Mathew Kipruto Bittok, Nickson K. Bittok and Anorld K. Bittok leading a group of almost twenty people who assisted them to disobey the court orders by entering into land LEMBUS/TORONGO/790 and subdivided the same into three portions and fencing with barbed wires and posts while they were armed.

The respondents had hired about 20 farm hand workers who were assisting them to contempt the court orders. That the respondent's actions were with menace, malicious and with full knowledge of the court orders in place and the contempt proceedings as well. That the actions of the respondents were reported to the police vide OB25/28/12/2016 at Eldama Ravine Police Station in which he was advised to seek further court reinforcement order and further instructions which is hereby sought for. That he prays that the honourable court to order the OCS, Eldama Ravine Police to foresee the enforcement of the orders

dated 30<sup>th</sup> day of September, 2014 and the subsequent orders dated 25<sup>th</sup> day of November, 2015. That he prays that the orders sought in this application be granted.

The application was served by the applicant to the advocates of the respondent but no reply was filed and nobody came to court.

I do find the application merited and do hereby order that the Officer Commanding Eldama Ravine Police Station to assist in the enforcement of the orders dated 30.9.2014 and subsequent orders dated 25.11.2015 affirming the prior orders of this court which have not been set aside or appealed from. Orders accordingly.

**DATED AND DELIVERED AT ELDORET THIS 10<sup>TH</sup> DAY OF FEBRUARY, 2017.**

**A. OMBWAYO**

**JUDGE**