



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT KERICHO

ELC NO.79 OF 2016

RICHARD KIPRONO BARCHOK.....PLAINTIFF

VERSUS

MERCY CHEBET LANGAT.....DEFENDANT

RULING

(Application for injunction; plaintiff stating that he is the owner of the suit land; defendant interfering with it; no response filed by the defendant; application unopposed; application allowed)

1. This suit was commenced by way of a plaint filed on 21 November 2016. The plaintiff's case is that he is the owner of the land parcel described as UNS. **Residential Plot No. 256-Kericho Municipality**. His case is that the defendant has without any colour of right entered into the land and stopped the plaintiff from fencing the said land. As a result of the defendant's action, the plaintiff has been unable to fence his land. In this suit, the plaintiff has sought orders inter alia for a permanent injunction to restrain the defendant from the suit land.

2. Together with the plaint, the plaintiff filed an application for injunction which is the subject of this ruling. In the application, the plaintiff has sought for orders to have the defendant restrained from the suit land pending hearing and determination of the case.

3. Despite being served, the defendant has not entered appearance and did not file anything to respond to the application. The only material that I have is therefore only that provided by the plaintiff.

4. In his supporting affidavit, the plaintiff has deposed that he purchased the suit property from one Mercy Chebet (not the respondent) and has displayed a letter of allotment issued to the said Mercy Chebet and a sale agreement dated 6 June 2013 vide which he purchased the property. I have no reason to doubt that the plaintiff is the rightful owner of the suit property. The defendant has not displayed anything that would demonstrate that she has any right over the suit land. In my view, the plaintiff has displayed a prima facie case with a probability of success. If the injunction is not issued, there is a risk that the defendant may continue interfering with the plaintiff's quiet possession and cause him loss.

5. I therefore allow this application for injunction and order the defendant and/or her servants/agents/assigns not to enter or be upon the suit land, and not to interfere with any fencing or any activity being undertaken by the plaintiff on the suit land pending the hearing and determination of this suit. The plaintiff shall also have the costs of this application.

6. It is so ordered.

Dated, signed and delivered in open court at Kericho this 3rd day of February 2017

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

KERICHO

PRESENT;

No appearance on part of M/s Nyaingiri & Co. Advocates for the Plaintiff/Applicant

No appearance entered for the Defendant/Respondent

Court Assistant; Wambany