



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA ELC CASE NO 42 OF 2017**

**FORMERLY MERU ELC CASE NO.14 OF 2014**

ROBERT MUCHANGI.....1<sup>ST</sup> PLAINTIFF

EDSOR KATHUNI.....2<sup>ND</sup> PLAINTIFF

VERSUS

COUNTY GOVERNMENT OF THARAKA NITHI.....DEFENDANT

**RULING**

1. This ruling relates to 2 applications. The 1<sup>st</sup> one is dated 17.6.2014 and seeks orders:

1. That this matter be certified extremely urgent and service be dispensed with and matter be heard in the 1<sup>st</sup> instance.

2. That court be pleased to issue an order of temporary injunction to stop the defendants/respondents herein, restraining them, their agents, servants, representatives or anybody claiming through them from selling, disposing off, trespassing, allotting, allocating, evicting or in any other way interfering with the plaintiffs user and occupation of plot 92, Chuka Town pending inter-arties hearing of this application.

3. That court be pleased to issue an order of temporary injunction to stop the defendants/respondents herein, restraining them, their agents, servants, representatives or anybody claiming through them from selling, disposing off, trespassing, allotting, allocating, evicting or in any other way interfering with the plaintiffs user and occupation of plot 92, Chuka Town pending the hearing and determination of this suit.

4. That the OCS Chuka Police Station, be empowered to execute the orders of the court so granted.

5. That costs of this application be provided for.

2. The application is supported by the affidavit of ROBERT MUCHANGI and has the following grounds:

(a) That the plaintiffs herein have been occupying and making use of the suit plot with full knowledge and consent of all the predecessors of the defendant.

(b) That the plaintiffs have extensively developed the suit plot from which they earn their livelihood from the proceeds of working on the suit plot.

(c) That the plaintiffs applied through application form No.119 to legalize the ownership of the plot to the defendant but the same has not been approved.

(d) That the defendant is now eager to transfer the suit plot to strangers and the plaintiffs shall suffer irreparable loss and damage that cannot be compensated by an award of damages if the orders sought are not granted.

3. The 2<sup>nd</sup> application is dated 12.1.2017 and seeks the following orders:

1. The plaintiff applicant be granted leave of court to amend his pleadings (plaint) to as per the annexed draft of the amended plaint.

2. That the costs of this application be provided for.

4. The application is supported by the affidavit of ROBERT MUCHANGI and has the following grounds:

(a) The defendant served the plaintiffs with his list of documents, including a certificate of lease showing that the parcel of land had been leased out to other third parties.

(b) That it is imperative that the third parties be enjoined in this suit for sufficient determination of the legal question of ownership raised.

(c) That no party shall be prejudiced if this application is allowed.

5. Orders issued in the 1<sup>st</sup> application dated 17.6.2014 have lapsed. I note that they were issued almost 3 years ago. The orders were not addressed to the correct parties and hence the application to include 3 other parties. I dismiss the application with costs to be in the cause.

6. As the original defendant is not opposed to the application dated, 12<sup>th</sup> January, 2017, the application is allowed with costs to be in the cause.

7. The plaintiffs are ordered to amend and exchange the apposite plaint within 7 days of today.

8. Directions on 22.3.2017.

9. It is so ordered.

**Delivered in open court at Chuka this 13<sup>th</sup> day of March, 2017**

in the presence of:

CA: Ndegwa

Miss Mbaikiata h/b Miss Kiome for the plaintiff

Murango Mwenda for the 1<sup>st</sup> defendant

**P. M. NJOROGE,**

**JUDGE.**