



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
ENVIRONMENT AND LAND COURT
CIVIL SUIT NO. 102 OF 2008

SOLOMON KIRUBARA MBUI.....PLAINTIFF

VERSUS

JENNIFER MWARANIA IKABU

(AS LEGAL REPRESENTATIVE OF IKABU MBUI).....DEFENDANT

LUCY AGNES NTHIORIINTERESTED PARTY

RULING

1. This Ruling is in respect of the application of 03:02:17 where Lucy Agnes Nthiori, the Interested Party prays for orders:-

- (1) That the Honourable Court be pleased to issue an order to the Plaintiff and the defendant to be complied to return the initial boundaries between LR No. NTIMA/NTAKIRA/2687 and NTIMA/NTAKIRA/2688.
- (2) THAT the OCS Meru Police Station be served with this order for compliance.
- (3) That the cost of this application be provided for.

The Application is based on the grounds :

- (1) THAT the applicant and the defendant has ploughed the whole land there by removing the bacons between LR No. NTIMA/NTAKIRA/2687 & NTIMA/NTAKIRA/2688.
- (2) THAT the Plaintiff and the defendant has encroached my parcel of land No. NTIMA/NTAKIRA/2687.
- (3) THAT dispute order of injunction issued by this Honourable Court the Plaintiff and the defendant has defied the same.
- (4) THAT the cost of this application be provided for.

3. When application came before me on 2/3/17 for the first time, I found no evidence of service. I hence directed the matter to be put off to 3/4/17. On 3/4/17 ,all parties were present by 12.00pm.Neither the plaintiff nor the defendant had filed any response to the present application. The court had asked the

plaintiff and defendant what they had to say about this matter and if they were aware of the judgment of this court delivered on 8/10/14. They replied as follows:-

4. PLAINTIFF

“I do not know about this case, I was not present when the Judgment of 8/10/14 was delivered. I now cant remember if I was present or not. I have never had a counsel, I have never appealed. I actually had a lawyer who appealed. I want to engage a lawyer as I was served late.”

5. DEFENDANT

“I am not aware of the judgment of the court of 8/10/14. I was present when the judgment was delivered. I never appealed against that judgment”.

6. It is quite apparent that Applicant is trying to enforce the decree arising from the judgment of 8/10/14. It is also clear that both plaintiff and defendant are still being crafty, feigning ignorance of the content of the judgment. The two have not appealed against the said judgment hence the decree must be enforced.

7. I therefore allow the application in the following terms:-

1) The initial boundaries as between land parcels NTIMA/ NTAKIRA 2687 and NTIMA/NTAKIRA 2688 to be marked out by a licensed surveyor.

2) The OCS Meru Police Station to provide security during the exercise.

6. Costs in the cause.

DELIVERED IN OPEN COURT AT MERU THIS 26TH APRIL, 2017 IN THE PRESENCE OF:-

CA: Janet

Solomon Kirubara- Plaintiff

Jennifer Mwarania Ikabu-Defendant

Lucy Agnes Nthiori- Interested Party

HON. L. N. MBUGUA

JUDGE