



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 222 OF 2017

**JAMLICK NGAI MUKUNGA (SUING AS THE CHAIMAN OF
KARIMAMWARO SELF HELP GROUP.....
.....PLAINTIFF**

VERSUS

**COUNTY GOVERNMENT OF THARAKA NITHI.....1ST
DEFENDANT**

**DAVID GITONGA MWAMBA (SUED IN HIS CAPACITY AS
CHIEF OF MWONGE LOCATION).....2ND
DEFENDANT**

**PRINCIPAL SECRETARY INTERIOR AND
NATIONAL COORDINATION.....3RD
DEFENDANT**

**THE ATTORNEY GENERAL.....4TH
DEFENDANT**

RULING

1. This application is dated 20.3.2017 and seeks orders:

1. That the application be certified as urgent and service of the application be dispensed with in the first instance.

2. That an order of temporary injunction do issue restraining the 1st & 2nd defendants through its (sic) officials/employees/servants/agents/assigns or anybody acting on their behest or instructions from building the Chief's Camp and Police Administration premises or in any way whatsoever interfering with the peaceful user and occupation by the plaintiff's (sic) Land Parcel No. MAGUMONI/MWONGE/184 in the interim basis pending interparty hearing and determination of the instance application.

3. That an order of temporary injunction do issue restraining the 1st & 2nd defendants through its (sic) officials/employees/servants/agents/assigns or anybody acting on their behest or instructions from building the Chief's Camp and Police Administration premises or in any way whatsoever

interfering with the peaceful user and occupation by the plaintiff's (sic) Land Parcel No. MAGUMONI/MWONGE/184 in the interim basis pending the hearing and determination of the main suit.

4. That the costs of the application be in cause.

2. The application is buttressed by the affidavit of JAMLICK NGAI MUKUNGA and has the following grounds:-

1. That the plaintiff (Karima Mwaro Self Help Group) is the registered owner of Land Parcel NO. MAGUMONI/MWONGE/184, the land having been allocated to them by the Government in the year 1967 and their interests registered as such in the land's registry.

2. That the members of Karima Mwaro Self Help Group have been in occupation and user of the said land parcel since the year 1967, and they have made extensive developments therein by building business premises as well as renting out a portion to Ndiruni Tea Buying Centre to act as their Tea collection Centre and from which they derive their income.

3. That the plaintiff avers that in July, 2016 or thereabout, the officials of the 1st defendant together with the 2nd defendant descended on the suit land and started carrying out survey works and earmarking the ground in readiness for the construction of the Chief's Camp and Police Administration premises.

4. That the plaintiff contends that in January, 2017 building materials started being deposited at the suit land by the officials of the 1st defendant under the supervision of the 2nd defendant, in readiness for the construction while instructing the plaintiff to vacate and cease occupying the suit land.

5. That the 1st and 2nd defendant (sic) officials have also earmarked the business premises therein for demolition in order to pave way for the construction, an action that will greatly affect the members of the group who make a living from renting out the said premises.

6. That the defendant started the said construction on 1st of March, 2017 on the suit land dispute (sic) the plaintiff having expressed their displeasure and objected to the actions of the 1st and 2nd but they failed and/refused to heed to the same while issuing threats to the plaintiff that the government can compulsorily acquire the land at any time if they wish to do so.

7. That we are at a risk of being forcefully and illegally evicted from the suit land and the premises therein demolished to pave way for the continued construction unless the orders sought herein are granted.

8. That if the orders of temporarily injunction sought herein are not granted, to preserve the suit land and prevent further trespass from the defendant (sic), the plaintiff will suffer irreparable loss and material damage as a result of the defendant (sic) continued trespass on their land and building therein.

9. That the orders herein are sought for the interest of justice.

3. When the matter was slated for hearing on 4.4.2017, the respondents, despite evidence that they had been served did not turn up in court.

4. Miss Kaaria and Mr. Kijaru, for the plaintiff, asked the court to allow the application as it was unopposed.

5. I agree.

6. Prayer NO. 3 for the temporary injunction restraining the respondents as per the prayer is granted pending hearing and determination of this suit and the attention of the respondents should be drawn to the provisions of section 29 of the ELC Act.

7. Costs shall be in the cause.

8. It is so ordered.

Delivered in open court at Chuka this 4th day of April, 2017 in the presence of:

CA: Ndegwa

Miss Kaaria and Mr. Kijaru for the plaintiff

P. M. NJOROGE,

JUDGE.