



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 233 OF 2017

ERASTUS MURITHI MWONGERA ALIAS RITHI MWONGERAPLAINTIFF

VERSUS

KENYA URBAN ROADS AUTHORITY.....DEFENDANT

RULING

1. This application is dated **24th April, 2017** and seeks orders:

1. That this application be certified s urgent and be heard exparte at the first instance.
2. That the Honourable Court be pleased to issue an order of temporary injunction restraining the Defendant, his assigns, agents, workers, employees and Successors in title from entering, occupying, remaining or in any other way interfering with the Plaintiff's or the Plaintiff's workers, employees, assigns and agents user and quiet enjoyment of PLOT NO. M 60 C CHUKA TOWNSHIP pending hearing and determination of this application.
3. That the Honourable Court be pleased to issue an order of temporary injunction restraining the Defendant, his assigns, agents, workers, employees and Successors in title from entering, occupying, remaining or in any other way interfering with the Plaintiff's or the Plaintiff's workers, employees, assigns and agents user and quiet enjoyment of PLOT NO. M 60 C CHUKA TOWNSHIP pending hearing and determination of this suit.
4. That costs of this application be provided for;

2. The application is buttressed by the affidavit of Erastus Murithi Mwongera ALIAS Rithi Mwongera and has the following grounds:

- (a) That the Applicant is the registered owner of PLOT NO. M 60 C CHUKA TOWNSHIP.
- (b) That the Respondent has been overseeing the improvement of the roads in Chuka Town.
- (c) That the said improvement has been ongoing for sometime now.
- (d) That the said plot is touching one of the roads within Chuka Town.
- (e) That the respondent has been threatening to demolish all the buildings on the applicant's said plot.

(f) That true to its threats the respondent has now written to the applicant giving a removal indicating that the applicant should remove his structures on the land failure to which the respondent shall demolish the said structures.

(g) That the said buildings were built by the applicant with approval of all relevant authorities.

(h) That it is fair, just and equitable that this application is granted.

3. On **27.6.2017**, **Mr D.J. Mbaya** told the court that he wished to withdraw this application because the defendant had already demolished the suit property, thus rendering the application superfluous. He would, however, proceed to prosecute the main suit.

4. This application is withdrawn with no costs.

5. The plaintiff to amend his plaint and other documents, if necessary, within the next 14 days.

6. Directions on 19.7.2017.

7. It is so ordered.

Delivered in open court at Chuka this **27th day of June, 2017** in the presence of;

CA: Ndegwa

D.J. Mbaya for the plaintiff.

P. M. NJOROGE,

JUDGE.