

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

E.L.C. CASE NO. 459 OF 2017

UMAGARA WIYONERE CO. LIMITED.....PLAINTIFF

VERSUS

SAMUEL GITONGADEFENDANT

RULING

The Plaintiff, which is the registered owner of L.R. No. 28395 (“the Suit Property”) situated in Nairobi County, seeks an order of injunction to restrain the Defendant from encroaching onto the Plaintiff’s land and running a car garage and car wash business on the Suit Property in Santon Kasarani Nairobi. The Defendant was served but declined to accept service stating that the matter could be settled in the chief’s office. The Plaintiff annexed a copy of a police abstract issued by the police when it reported the encroachment on its property at Kasarani Police Station in June this year. The Plaintiff also annexed photographs showing the structure the Defendant had constructed on the Suit Property which he is using as a shade for the garage and car wash. A copy of a letter from the Ministry of Interior summoning the Defendant to the chief’s office on 23rd June, 2017 was also attached.

The court is satisfied that the Plaintiff as a prima facie case against the Defendant and that it will suffer irreparable damage if the orders are not granted. The court issues an injunction prohibiting the Defendant, his agents or servants from carrying on the business of a car garage and car wash on the Suit Property or encroaching on it until this suit is heard and determined. The Plaintiff will have the costs of this suit.

Dated and delivered at Nairobi this 31st day of July 2017.

K. BOR

JUDGE

In the presence of: -

Mr. Wanyoike for the Plaintiff

No appearance for the Defendant

Mr. V. Owuor- Court Assistant