



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA**  
**AT MOMBASA**  
**CIVIL SUIT NO. 336 OF 2016**

**HUDSON KARIUKI NGUURO**

**SAID AWADH SAID**

**MILLY MUTISYA**

**ANWAR ALI SALIM**

**MOHAMED HAMID MOHAMED**

**DUNCAN NDIRANGU MONGA..... PLAINTIFFS**

**-VS-**

**AMIRAL HASSANALI MOHAMED**

**ZARINA AMIRAL MOHAMED..... DEFENDANTS**

**RULING**

1. This is the Notice of Motion dated 11/11/2016. It is brought under section 13, 19 of the Environment and Land Court Act No 10 of 2011, S 28(h) & (a) of the Land Registration Act Number 3 of 2011, S. 7 of the Land Act Number 6 of 2011 and all other provisions of the law.

It seeks orders that;

1. Spent

2. Spent

3. Pending the hearing and determination of this application interpartes this Honourable Court be pleased to issue an injunction restraining the Respondents whether by themselves or their agents from evicting, interfering with the Applicants quiet enjoyment of the portions of Plot Number Mombasa/Block v/ms/133 (hereinafter referred to as the suit land) and from selling, alienating or in any manner dealing with the suit land.

4. Costs of this application be provided for.

2. The grounds are on the face of the application. The main one being the Applicants have possessed

occupied and used and are currently residing on the portion of the suit land undisturbed from 2001. The application is supported by the affidavit of Hudson Kariuki Nguuro the 1<sup>st</sup> Applicant herein sworn on the 11/11/2016.

There are also affidavits by the other five Applicants together with the supplementary affidavits.

3. The application is opposed. There is a replying affidavit sworn by Amiral Hassanali Mohamed on the 13/1/2017. He is the 1<sup>st</sup> Respondent herein.

4. I have considered the pleadings, the Notice of Motion, supporting affidavits and supplementary affidavits together with the annexures.

I have also considered the Replying affidavit and the annexures. The issues for determination is whether the Applicants have met the conditions for the grant of the orders sought.

5. It is the Applicant's contention that they have been on the suit land since 2001 that they have constructed their homes there.

It is the Respondent's contention that the Applicants were duped into buying portions of the suit land from someone who was not authorized to sell. They also deny that the Applicants have been on the suit land since the year 2001.

6. I have considered the submissions of both counsels and the authorities cited.

It is not in doubt that the Respondents are the registered owners of the suit land.

A look at the photographs exhibited by the Applicants show that the houses were recently constructed. The fact that there are sale agreements executed by one Swaleh Rashid goes against the Applicant's allegations in the originating summons.

However in the interest of justice I do find that the status quo ought to be maintained pending the hearing and determination of the main suit.

Accordingly I accord the application in the following terms;

a) That pending the hearing and determination of this application into parties a temporary injunction do issue restraining the Respondents, whether by themselves or their agents from evicting, interfering with the Applicants quiet enjoyment of the portions of Plot Number Mombasa/Block VI/MS/133 and from alienating on any manner dealing with the suit land.

b) The costs of the application do abide the outcome of the main application orders accordingly.

**Dated and signed at Mombasa on the 19<sup>th</sup> July, 2017.**

**L. KOMINGOI**

**JUDGE**

**19/7/2017**

Ruling dated and delivered in open court on the **19<sup>th</sup> July 2017** in the absence of parties duly informed.

**L. KOMINGOI**

**JUDGE**

**19/7/2017**