



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 21 OF 2017

FORMERLY MERU ELC CASE NO.44 OF 2016

PETER MUGO.....1ST PLAINTIFF

CATHERINE IGOKI MUGO.....2ND PLAINTIFF

VERSUS

STEPHEN NJAGI.....DEFENDANT

RULING

1. This ruling concerns an application dated 25.4.2016. It seeks orders:

1. That this application be certified as urgent and the same be heard ex-parte due to its urgency.
2. That this honourable court be pleased to issue an order of temporary injunction restraining the respondent whether by himself, his agents, servant or assign from trespassing / encroaching, wasting, constructing, selling / alienating or otherwise interfering or dealing with plaintiff (sic) property being 5 acres clearly demarcated and fenced on land parcel No.677 Kamwimbi "A" Adjudication section pending the hearing and determination of this application.
3. That this honourable (sic) be pleased (sic) to issue (sic) an order of temporary (sic) injunction restraining the respondent whether by himself, his agents, servant or assign from trespassing / encroaching, wasting, constructing, selling / alienating or otherwise interfering or dealing with plaintiff (sic) property being 5 acres clearly demarcated and fenced on land parcel No.677 Kamwimbi "A" Adjudication section pending the hearing and determination of this suit.
4. That the honourable court be pleased to issue an order of inhibition against land parcel No.677 Kamwimbi "A" Adjudication section pending the hearing and determination of the suit or the instant application.
5. That the honourable court be pleased to order the commanding police officer Kamwimbi police station to ensure compliance of the order.
6. Cost of this application.
7. Any other remedy benefiting the case.

2. The application is supported by the affidavit of Peter Mugo, the 1st Plaintiff and has the following

grounds:

- a) The plaintiff and the defendant are related as they share a grandfather and all come from the clan of **Nyonga ya atu ba mbogo**.
- b) The plaintiff and the defendant live on land parcel NO.677 Kamwimbi "A" Adjudication section registered in the names of defendant.
- c) The plaintiff and the rest of the Nyonga clan appointed/nomited (sic) the defendant to be their representative at clan level land disputes.
- d) That the defendant represented Nyonga Clan in a land dispute with a clan called Gatiri.
- e) That the defendant (sic) expenses to the case and subsequent arbitrate (sic) case, objection case and eventually registrations (sic) was catered by the plaintiffs on promise the defendant will cause transfer of 5 acres on land parcels (sic) No.677 Kamwimbi "A" Adjudication section.
- f) The plaintiff (sic) have been in quiet peaceful occupation of their 5 acres fenced on land parcel (sic) No. 677 Kamwimbi "A" Adjudication section since 1980.
- g) The defendant has always promised the plaintiff that he shall give them their land only for him to turn back on his promise.
- h) The defendant has threatened to sell the plaintiff (sic) land to their detriment and all form of police intervention has borne no fruits to the matter at hand.
- i) That unless the defendant and those working at his behest are injucted by this honourable court from trespassing of (sic) whatsoever dealing with the applicant clearly demarcated and fenced 5 acres on land parcel No.677 Kamwimbi "A" Adjudication section the plaintiffs stand to suffer irreparable damage as the land is their source of income /food.

3. Having delivered a ruling concerning a notice of preliminary objection dated 12thJuly, 2016, I deem it in the interest of justice to have the matter heard expeditiously. Having considered all the filed proceedings and the totality of the circumstances of this suit, I grant prayers 3 and 4 in the application so that the matter in issue can be heard on their merits.

4. Costs shall be in the cause.

5. Parties to fully comply with order 11, Civil Procedure Rule within 30 days of today.

6. Parties to come to court to confirm compliance and to obtain a hearing date on 17.10.2017.

7. It is so ordered.

Delivered in open court at Chuka this **17th day of July, 2017** in the presence of:

CA: Ndegwa

Mutungwa for the plaintiffs

Firm of Basilio Gitonga for defendant absent

P.M. NJOROGE

JUDGE