



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAROK**

**ELC CAUSE NO. 454 OF 2017**

**LESHAN OLE KUKUU.....PLAINTIFF**

**-VERSUS-**

**JAMES KAIPOI.....DEFENDANT**

**RULING**

The Applicant had by an application dated 30<sup>th</sup> May, 2017 sought orders to restrain the Defendant from dealing or interfering with any manner a parcel of land known as OLOMISMIS adjudication 186 within Olomismis Group Ranch.

The application was based on the grounds that the plaintiff was the allottee of the said plot and the Defendant had forcefully entered the said plot on 17<sup>th</sup> May, 2017 and started grazing his cattle. The Applicant contends the said action will make him suffer loss and damage.

The Application was also supported by a Supporting Affidavit of Leshan Ole Kukuuin which he expounded on the grounds and annexed various documents including the list of Olomismis Group Ranch.

In the affidavit the Applicant states that he was allocated 60acres of land and he later purchased 13 acres. The Applicant states that his family has lived on the land further that the defendant has encroached on the land by about 15 acres and the Respondent is grazing his animals.

The Applicant alleges that the Respondent has obtained title to the said land through fraudulent means.

The Respondent has opposed the Application and filed a Replying Affidavit dated 12<sup>th</sup> June, 2017. He states that he is a bonafide purchaser of the land known as **TRANS MARA OLEMISMIS/1072** and he lawfully lives on the said land. The Respondent alleges that the applicant lives on a parcel of land known as **TRANSMARA/OLEMISMIS/1073** and that both their respective land is separated by a road. The Respondent also denies that the Applicant purchased 13 acres of land as claimed.

On the issue of having a title to the land that was obtained the respondent denies the same.

On the 13<sup>th</sup> June, 2017 the Application was canvassed before me by learned Counsel acting for both the Applicant and the Respondent.

I have read the Application together with the annextures thereon and I have further read the Replying Affidavit and I have submissions made by counsel in the matter and the issue for determination in this application to my mind are matters that can be addressed during a full trial where witness testimony can be heard.

In the meantime I am convinced that the Applicant has met the conditions for the grant for an injunction as outlined in the case of **GEILLA VERSUS CASSMAN BROWN** and I will thus allow the application dated 30<sup>th</sup> May, 2017. The cost of this Application shall be in the cause.

**DATED, SIGNED and DELIVERED** in open court at **NAROK** on this 13<sup>th</sup> day of July 2017.

**Mohamed N. Kullow**

**Judge**

**13/7/17**

In the presence of:

Ms. Mukoye for the Plaintiff/Applicant

Mr. Morintat holding brief for Serian for the Defendant/Respondent

CA:Chuma