



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC CASE NO. 277 OF 2017

JOSEPH MUNGATHIA KIBUTHANIA.....PLAINTIFF

VERSUS

JULIUS GITONGA.....1ST DEFENDANT

DOUGLAS MICHUBU.....2ND DEFENDANT

JULIUS MUTIA M'EBUTHANIA.....3RD DEFENDANT

THE DISTRICT LAND ADJUDICATION AND

SETTLEMENT OFFICER AKIRANGONDU

ADJUDICATION SECTION.....4TH DEFENDANT

RULING

1. The Notice of Motion dated 20th September, 2017 seeks the following orders:-

1) Spent.

2) That this Honourable Court be pleased to issue an order of temporary injunction restraining the defendants their agents, servants or anyone else working at their behest from the interfering with the Plaintiff's possession and/or occupation of land parcel LR.NO. IGEMBE / AKIRANG'ONDU "B" /1493 pending the hearing and determination of this application.

3) That this Honourable Court be pleased to issue an order of temporary Injunction restraining the defendants their agents, servants or anyone else working at their behest from the interfering with plaintiff's user, possession and/or occupation of land parcel LR NO. IGEMBE/AKIRANG'ONDU'B' /1493 pending the hearing and determination of this suit.

4) That costs for and incidental to this application be borne by the defendant.

2. The application is based on the grounds:-

i. That the Plaintiff is the registered owner of the land parcel L.R NO. IGEMBE/AKIRANG'ONDU 'B' / 1493 which has occupied all his life for a period of over 50 years and have developed the same extensively.

ii. That on 25/08/17 the 1st, 2nd and the 3rd defendants in company of hirelings invaded the plaintiffs land parcel LR.NO. IGEMBE/AKIRANG'ONDU 'B'/1493 by encroaching on the same, destroyed the plaintiff seasonal food crops and also erected a fence within the plaintiff's land.

iii. That upon the perusal by the plaintiff of the IGEMBE/AKIRANG'ONDU Adjudication registry index map sheet No. 19/5 the plaintiff realized that the 1st, 2nd, 3rd and 4th defendants conspired and fraudulently altered the registry index map by removing the plaintiff, and parcel LR No. IGEMBE/AKIRANG' ONDU / 1493 on the map and replaced the same with the 1st, 2nd and 3rd defendant lands and taking the plaintiff's land to unknown destination.

iv. That the 1st, 2nd and 3rd defendants have now vowed to evict the plaintiff from his occupation and have also commenced to harvest the plaintiff Miraa trees to his financial detriment.

v. That unless the orders sought are issued the plaintiff occupation and user of his land will be curtailed occasioning him unrepairable damage.

3. Applicant has sworn an affidavit in support of his application where he avers that he has been in occupation of the suit land for over 50 years. He has also availed a copy of a title deed to show that he is the registered owner of the suit land.

Defendant did not file any response despite the fact that service was effected.

I therefore find that the application is merited. The application is allowed but the Injunctive Orders are to remain in force for a period of 8 months. There are no orders as to costs.

DELIVERED, SIGNED AND DATED THIS 24TH OCTOBER, 2017 IN THE PRESENCE OF:-

C:A Janet

Kithinji for Plaintiff -present

HON. L.N. MBUGUA

ELC JUDGE