



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF AT MERU

E&L CASE NO. 210 OF 2017

PATRICK GITONGA GITHINJI.....PLAINTIFF/APPLICANT

VERSUS

CATHERINE KARIMI MITHEU.....1ST DEFENDANT/RESPONDENT

SAMUEL MITHIKA KARURU.....2ND DEFENDANT/RESPONDENT

R U L I N G

1. The Notice of Motion dated 13th July, 2017 seeks the following orders:-

1) Spent.

2) That the Hon. Court be pleased to issue an order of injunction restraining the defendants, their agents, assignees or anybody acting on their behalf from entering or interfering in any way with the plaintiff's peaceful occupation and utilization of parcel No. AMWATHI/MAUA/15546 until this application is heard interparties.

3) That this Hon. Court be pleased to confirm prayer (2) above until this suit is heard and determined.

4) That costs of this application be provided.

2. The application is based on the grounds:-

1) That it is the Plaintiff who is in occupation of the suit.

2) The Plaintiff has a valid agreement with the 1st defendant who sold him the whole of the subject parcel.

3) That now the 1st Defendant has fraudulently sold the same parcel to the 2nd defendant even before the due payment reaches hence the urgency herein.

4) Also the 1st defendant has issued a vacation notice to the plaintiff hence the urgency.

5) That now the Plaintiff wants this application to be allowed until the suit herein is heard and determined.

3. Applicant has sworn an affidavit (dated 13.07.17) where he states that he is in occupation of the Suitland. He has developed the property whereby he has built a semi-permanent house.

Applicant's claims have not been rebutted as defendants have not filed any documents despite service.

In the circumstances, I find that the application is merited. I allow the same but Injunctive Orders shall remain in force for a period of 8 months. No orders as to costs.

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

C:A Janet

Miss Ondari H/B for Ogoti for Plaintiff /Applicant present

HON. L.N. MBUGUA

ELC JUDGE