



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

E & L LAND CASE NO. 215 OF 2017

ZAKAYO MICHUBU KIBUANE1ST PLAINTIFF

SUSAN KAGENDO KABIRO2ND PLAINTIFF

VERSUS

MOSES MUNG'ATHIA SAMUELDEFENDANT

R U L I N G

1. The Notice of Motion dated 17th July, 2017 seeks the following orders:-

1) Spent.

2) That this Honourable Court be pleased to issue an order of temporary injunction restraining the defendant by himself, his agents, relatives, employees and /or anybody else whomsoever acting on his behalf, from blocking, closing, fencing, cultivating, building, depositing building material and/or otherwise whatsoever interfering with the Plaintiff' rights to use, enjoy, and /or otherwise pass through the access road extending/situate on the western side of Land parcels numbers 1825, 12530 and 11668 Antubetwe Kiongo Adjudication Section and/or serving the said parcels of land, until this application is heard and determined.

3) That this Honourable Court be pleased to issue an order of temporary injunction restraining the defendant by himself, his agents, relatives employee and /or anybody else whomsoever acting on his behalf, from blocking closing, fencing, cultivating, building, depositing building materials and/or otherwise pass through the access road extending /situate on the western side of land parcel numbers 1825, 12530 and 11668 Antubetwe Kiongo Adjudication Section amd /or serving the said parcels of land, until this suit is heard and determined.

4) That the orders issued herein be served upon the OCS laare Police Station to ensure compliance.

5) THAT ALTERNATIVELY AND WITHOUT PREJUDICE to prayers 1, 2, 3, and 4 hereinabove, this Honourable Court be pleased to order that this suit be heard and determined on priority basis.

6) That the costs of this application be provided for.

2. The Application is based on the grounds:-

i. The 1st Plaintiff/Applicant is the owner of land parcel number 11668 Antubetwe Kiongo

Adjudication Section while the 2nd Plaintiff/Applicant is the owner of land parcels numbers 12530 and 1825 Antubetwe Kiiongo Adjudication Section.

ii. Land parcel numbers 1825, 12530 and 11668 Antubetwe Kiongo Adjudication Section are adjacent to each other and they are duly demarcated and fenced on the ground and the Plaintiffs have developed them by, among others, planting miraa and avocado trees besides cultivating seasonal crops like maize and beans thereon.

iii. The Plaintiffs aver that on the Western side of the said Land Parcels Numbers 1825, 12530 and 11668 Antubetwe Kiongo Adjudication Section, there is an access road serving them.

iv. On or about 26th of May, 2017, the defendant/respondent illegally, unlawfully, wrongfully and /or fraudulently closed/blocked the above-stated access road thereby rendering the said land parcels numbers 1825, 12530 and 11668 Antubetwe Kiongo Adjudication Section, landlocked, inaccessible and/or unreachable.

v. The Defendant/Respondent is now using armed goons to block the said road and he has threatened to harm any person who dares to use it, including the Plaintiff/Applicants.

vi. It is in the interest of justice and fairness that this application be allowed.

3. 1st Plaintiff has also filed a Supporting Affidavit, Where he has affirmed the claims in the application.

4. No response was filed despite the fact that service was effected.

5. I therefore, find that the application is merited. The application is allowed in terms of prayer 4 of the application, for a period of 8 months.

**DELIVERED, SIGNED AND DATED IN OPEN COURT AT MERU THIS 11TH OCTOBER, 2017
IN THE PRESENCE OF:-**

CA: Janet

Rimita Miss h/b for Ngunjiri for Applicant present

HON. L.N. MBUGUA

JUDGE