



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 89 OF 2017

DAVID KABULU THANYAKU.....PLAINTIFF

VERSUS

JOSEPH NCUBIRI.....DEFENDANT

RULING

1. The application filed on 13th March, 2017 seeks the following orders:-

1) Spent.

2) That this Honourable Court be pleased to issue a temporarily order of injunction restraining the defendant/respondent, his agents, servants and/or employees, or whomsoever else, acting on the defendants /respondent's behalf or instructions from entering into, cultivating, utilizing, occupying trespassing or in any other manner whatsoever dealing with and or interfering with plaintiff/applicants ownership possession, occupation and use of land parcel No. TIGANIA/KITHARENE/2622 pending the inter-parties hearing and determination of this application and thereafter as the Court shall so order.

3) That this Honourable Court be pleased to issue as order of injunction restraining the defendant/respondent his agents, servants and/or employees or whomsoever else acting on the defendant/respondent behalf or instruction from entering into, cultivating, utilizing, occupying, trespassing or in any other manner whatsoever dealing with and/or interfering with the plaintiff/applicant's ownership, possession occupation and use of land parcel No. TIGANIA/KITHARENE/2622 pending the hearing and determination of this suit.

4) That the costs of this application be costs in the cause.

2. The application is based on the grounds:-

a) That the Plaintiff/applicant is the bonafide and duly registered owner of that land parcel known or described as L.R NO. TIGANIA/KITHARENE/2622 and he is in possession of a title deed thereto.

b) That the Defendant/Respondent is in illegal retention and trespass upon the said land parcel and has prevented the plaintiff/Applicant from entering actual occupation and use of the said land parcel.

c) That actions and activities of the Defendant/Respondent on the said land parcel are illegal and interfere and he ought to be restrained by way of an injunction.

3. There is a Supporting Affidavit of the applicant where he has more or less retaliated what is in his pleadings. Defendant was served but filed no response.

I find that annexure DKT "1", a title deed indicates that Plaintiff is the registered owner of the Suitland. The application is therefore merited, and the same is allowed as drawn.

DELIVERED, SIGNED AND DATED IN OPEN COURT AT MERU THIS 4TH DAY OF OCTOBER, 2017 IN THE PRESENCE OF:

CA: Janet

Kaimenyi for applicant present

Defendant absent

Hon. L.N. MBUGUA

ELC JUDGE