



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MIGORI
ENVIRONMENT AND LAND COURT
ELC CASE NO. 858 OF 2017

LEONARD OUMA MRONGO.....PLAINTIFF

-versus-

MONICA AKINYI MISANGYA.....1ST DEFENDANT

JOHN OBILLOH JARED.....2ND DEFENDANT

MICHAEL OMONDI ABUYA.....3RD DEFENDANT

HENRY OTIENO ABUYA.....4TH DEFENDANT

JUDGMENT

1. This suit was filed by way of Plaint dated **19th October 2017**, by the Plaintiff represented by Okundi & Co. Advocates. In the plaint, orders sought against the four (4) defendants are :-

a) **Order of permanent injunction restraining the Defendants whether by themselves, servants, employees, workers or agents from trespassing, encroaching, invading and or interfering with the peaceful and quite enjoyment, use and occupation of land parcel Number 31 situated at Uterere, Gwasi in Homa- Bay.**

b) **Order of permanent injunction restraining the defendants whether by themselves, servants, employees, workers or agents from trespassing, encroaching, and invading upon parcel Number 31 so as to restrained from carrying out any funeral arrangements and thereafter proceeding with the burial of one Maheri Samwel Jared (deceased) on land parcel No. 31 or any of my property for that manner.**

c) **Cost of the suit.**

d) **Interest on (c) above.**

2. On 23/10/2017, Mutungi J, granted an order of temporary injunction in terms of prayer 4 of the Notice of Motion dated 19/10/2017.

3. By a consent order dated 31/10/17 signed by counsel for the Plaintiff/Applicant and counsel for the Defendant/Respondent, the parties have sought to have the suit disposed of in terms of order (a) sought in the plaint. The issue for determination is whether the plaintiff is entitled to orders prayed for in the plaint.

4. I have noted the consent order. It reads-;

“ An order of permanent injunction is hereby granted restraining the defendants whether by themselves, servants, employees, workers or agents from trespassing, encroaching, and invading upon parcel Number 31 situated at Uterere, Gwasi in Homa-Bay County for any reasons and specifically to restrain the said Defendants from carrying out any funeral arrangements and thereafter proceeding with the burial of one Maheri Samwel Jared (deceased) on land parcel No. 31 or any of my property belonging to the Plaintiff for that matter”.

5. I consider the entire suit and the consent order. I find the consent order in line with **Article 159(2)(b) and (c) of the Constitution of Kenya 2010**. It is merited in the circumstances.

6. I accordingly adopt the consent order as a final Judgment of this court.

7. No orders as to costs.

DELIVERED, DATED and SIGNED at MIGORI this 15th day of November 2017.

G. ONGONDO

JUDGE

In presence of :-

Ms. Angawa counsel for the Plaintiff

Tom Maurice – Court Assistant.