



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

IN THE ENVIRONMENT AND LAND COURT AT MERU

E & L NO 54 OF 2015

MOFFAT GICHURU.....PLAINTIFF

VERSUS

M'IMANYARA M'MURITHI.....1ST DEFENDANT

WILSON MWIRIGI.....2ND DEFENDANT

BUNDI GICHURU.....3RD DEFENDANT

RULING

1. This ruling concerns an application dated 11th August, 2015 filed by the Plaintiff. It seeks orders:-

1. The Defendant, either by themselves, agents or servants be restrained by orders of this Court from destroying the Plaintiff properties, interfering or entering land parcel No. ABOGETA/U-KITHANGARI/2541 until this application is heard and determined.

1(a) The defendants, either by themselves, agents or servants be restrained by orders of this Court from destroying the Plaintiff properties, interfering or entering land parcel No. ABOGETA/U KITHANGARI/2514 until this application is heard and determined.

2. That this Honourable Court do issue orders of inhibition upon land parcel No. ABOGETA/U-KITHANGARI/2541 for preservation of the subject matter until this application is heard and determined.

2 a That this Honourable Court do issue orders of inhibition upon land parcel No.ABOGETA/U-KITHANGARI/2514 for preservation of the subject matter until this application is heard and determined.

3. That the above orders be enforced through the O.C.S Nkubu Police Station and the respondent pays cost of this application.

2. The application is buttressed by the Affidavit of MOSES N. KIRIMA and has the following grounds:-

a. The Defendants invaded the applicant on 20.06.2015 day beat him seriously with other 11 hired goons and caused a lot of property destruction and left after threatening to kill him and

burn his house.

b. The Plaintiff has been occupying the whole land since 1975 without interference or disturbance from any quarters and developed the whole of it since his uncle bequeathed it to him.

c. The 1st Defendant want to fraudulently to cause transfer of the Plaintiff land by doing that the land will alienated to 3rd parties which will make the Plaintiff suffer irreparable damages.

d. The 1st defendant has lived far away from the Plaintiff land and they have never at any time settled in land number ABOGETA/U-KITHANGARI/ 2541.

(di) The 1st defendant has lived far away from the Plaintiff land they have never at any time settled in land number ABOGETA/U-KITHANGARI/2514.

(e) The frequent threats and intimidation by the defendants is threatening the plaintiff peaceful life and quite possession of his property against the Kenya's constitution.

3. On 18/05/2016 and on 19/5/2016, the parties proffered 2 consents signed by their Advocates which they asked the Court to adopt as its order. The consolidated tenor of the Consents is in the following terms:-

“By consent of the parties:

1. The Defendant be allowed to harvest their cabbages and carrots within 2 months of 19/05/2016 and leave the Plaintiff on the land in issue pending the hearing and determination of this case.

2. Parties to fully comply with order 11, CPR,

4. I adopt the above consented terms as an order of this Court.

5. This application is deemed heard and determined.

It is so ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 19TH DAY OF MAY, 2016 IN THE PRESENCE OF :-

CC: Daniel/Lilian

Kiogora for the Defendants/ Respondents

Muthamia h/b Kirima for Plaintiff/Applicant.

P .M. NJOROGE

JUDGE