

REPUBLIC OF KENYA

IN THE ENVIRONMENT & LAND COURT AT KERICHO

CIVIL SUIT NO. 30 OF 2016

JANEFFER CHEBII KIMETTO.....PLAINTIFF

(suing as the personal representative of the late JONAH KIPKOSKE ARAP CHUMO)

VERSUS

BOARD OF GOVERNORS

CHEBWAGAN YOUTH POLYTECHNICDEFENDANT

RULING

(Application for injunction; plaintiff contending that defendant is building on her land; no response by the defendant ; application not opposed; application allowed)

This suit was commenced by way of plaint filed on **26th May 2016**. The plaintiff is the personal representative of the estate of Jonah Kipkoske Chumo (deceased) in whose name the **land parcel Kericho/Litein/330** is registered. It is averred that the defendant has illegally trespassed into the said land and has commenced constructing structures. In the suit, the plaintiff has asked for orders of permanent injunction against the defendant restraining it from interfering with the suit land.

Together with the plaint, the plaintiff filed an application for injunction which is the subject of this ruling. Despite being served, the defendant has not entered appearance to this suit nor replied to the application. The only material that I have is therefore that supplied by the plaintiff. The plaintiff has annexed a copy of a search certificate of the suit land and photographs of ongoing construction. I have no reason to doubt these documents.

Having considered the matter, I am of the view that the plaintiff has displayed a prima facie case with a probability of success. There is risk of irreparable loss if the ongoing construction is allowed to proceed for this will waste the land. I therefore allow the application for injunction and order the defendant to stop all construction in the **land parcel Kericho/Litein/330** until the conclusion of this suit.

The costs of the application shall be costs in the cause.

It is so ordered.

Dated, Signed and delivered on this 29th day of July, 2016

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT

PRESENT

Ms. Kitur holding brief for Ms Chelimo for Plaintiff/applicant

No appearance for Defendant/Respondent

Court Assistant: Gladys Wambany