



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT NAKURU**

**ELC NO. 143 OF 2016**

**ROSEMARY WANGARI .....1<sup>ST</sup> PLAINTIFF**

**GLADYS GATHONI .....2<sup>ND</sup> PLAINTIFF**

**JENNIFER NJOROGE .....3<sup>RD</sup> PLAINTIFF**

**VERSUS**

**LUCY WANJIRU MUTURI .....DEFENDANT**

**RULING**

***(Application for injunction; application not opposed; plaintiffs being owners of suit property; defendant wishing to put a container in front of it; no right shown by defendant that she can do so; prima facie case established; application allowed).***

1. This suit was commenced by way of plaint filed on 27 April 2016. The three plaintiffs have pleaded that they own the land parcel L.R No. 1317/2/III situated in Gilgil Town together with one of their later brothers by the name of Henry Kimani Njenga. They state that they acquired this property from their late father one Joseph Njenga Kimani. The property is developed with some shops which have tenants. On 14 April 2016, the plaintiffs were called by three of their tenants who informed them that the defendant has advised them to close the entrance to their business by 30 April 2016, as she intends to place a container in front of the business premises. It is averred that this will completely block access to the plaintiffs' premises and the defendant has no proprietary rights whatsoever in the area. In the suit, the plaintiffs want the defendant permanently restrained from putting up the containers, as it is argued, that this will block the entrance to their premises.

2. Together with the plaint, the plaintiffs filed an application for interlocutory injunction to have the defendant restrained from putting up the containers or any other structure in front of the suit property pending hearing and determination of the case. It is that application which is the subject of this ruling.

3. Despite being served, the defendant has not filed anything to oppose the application. In fact she has not even entered appearance to this suit.

4. I have considered the matter. The plaintiffs have demonstrated ownership of the suit property. I have seen the deed plan which they annexed in their supporting affidavit. The area where the defendant wishes to put up the containers appears to be a reserve of the suit property. 5. The defendant has not demonstrated to me why she should be allowed to put up the said containers or any structure in this area. In the

premises, I am of the view that the plaintiffs have demonstrated a prima facie case with a probability of success. They stand to suffer loss if the defendant continues with her intended action.

6. I therefore allow the application for injunction. I order the defendant and/or her servants/agents/assigns not to put up any container, erect any structure, enter or be upon, utilize, or in any other way interfere with the land parcel L.R No. 1317/2/III or the siding reserve to the said land, pending the hearing and determination of this case.

7. Costs of this application shall be costs in the cause.

8. It is so ordered.

**Dated, signed and delivered in open court at Nakuru this 12<sup>th</sup> day of July , 2016.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**

**In presence of**

Mr Njoroge holding brief for Mr. Mwiha for plaintiff/applicant.

N/A for defendants who have not entered appearance .

Court Assistant : Janet

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT AT NAKURU**