

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MALINDI

ELC CIVIL CASE NO. 235 OF 2013

REGISTERED TRUSTEES KENYA

ASSEMBLES OF GOD.....PLAINTIFF

=VERSUS=

NAOMI JAPHET SAMUEL.....DEFENDANT

R U L I N G

1. In his Application dated 2nd October, 2015, the Plaintiff is seeking for these orders:-

(a) Pending the hearing and final hearing of this application interpartes, this Honourable court be pleased to issue a temporary injunction restraining the Respondent, whether by herself or her servants and/or agents from evicting, interfering with the Applicant's quiet enjoyment of and/or selling, alienating or in any manner dealing with a portion of plot No.Kilifi/Roka/565 measuring 50ft by 70 ft situate at Roka within Kilifi County (hereinafter referred o as the suit land) until final determination of the suit.

(b) The orders herein be served upon Raymond Kalama Kadoro and Nassib Kadoro respectively.

(c) The costs of this Application be in the cause.

2. The Application is premised on the grounds that the Applicant carries its activities on the suit property; that the Respondent, through her sons, has threatened to use violence against the Applicant's servants and that the orders of injunction should issue.

3. The Respondent filed Grounds of Opposition and averred that the main suit is seeking for an order of specific performance and in the alternative for the Plaintiff to be paid Kshs.730,000; that the orders of injunction cannot issue and that the suit land belongs to a deceased person whose estate is not represented.

4. The Plaintiff's advocate filed brief submissions in which he reiterated his client's deposition.

5. The Defendant did not file a Replying Affidavit to deny the Plaintiff's deposition that it is the Plaintiff who is in occupation of the suit land.

6. The Defendant did not also exhibit any evidence to show that she is non-suited, or to show that that Plaintiff cannot succeed in its claim.

7. In the absence of denial on the part of the Defendant that it is the Plaintiff who is in possession of the suit property, I allow the Application dated 2nd October 2015, as prayed.

Dated, signed and delivered in Malindi this 22nd day of **September**, 2016.

O. A. Angote

Judge