

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
ENVIRONMENT AND LAND COURT

E.L.C. NO.109 OF 2013

ELIZABETH WARUGURU..... PLAINTIFF

VERSUS

MOSES KANYINGI.....DEFENDANT

R U L I N G

The applicant is the wife of the defendant who is alleged to be in the process of disposing the suit land and the applicant fears to be evicted anytime. The land is matrimonial home where the applicant and her family reside. She prays in the application dated 12/5/2014 that this court be pleased to order the defendant/respondent property to be attached and/or the defendant/respondent be detained in prison for a term not exceeding six months for disobeying a court order.

The application is based on the grounds that **the defendant has blatantly disobeyed the orders of injunction granted on 18/6/2013 by proceeding to subdivide the land & destroying applicants property and that the applicant who has been using the land may be evicted at anytime.**

In the supporting affidavit the applicant states that the defendant is her husband and they reside on the suit land. They have established their matrimonial home on the suit land and have developed the same extensively. She also has various crops such as Maize, beans, bananas, nappier grass, fruit trees on the land which she cultivates and has contributed extensively both in acquisition and development of the suit land. The defendant had threatened to sell the land evict her and that is why she obtained orders of injunction before this court on 18/6/2013 when both herself and the respondent were in court.

However, in complete disregard for the orders of the Honourable Court of 18/6/2013, the respondent on 1/5/2014 entered the land accompanied by some people he was leading & purported to subdivide the land, whereby he caused damage to her properties and uprooted her crops in the pretext of erecting beacons on the land. She urges this Honourable Court to take appropriate action against the respondent for acting with impunity. She prays for compensation for the damage/injury sustained.

The application though served was not opposed by way of replying affidavit or grounds of opposition. Moreover, the defendant/respondent failed to attend court on the hearing of the same.

This court is satisfied that the defendant was served but has decided to disobey the court order with impunity. He is hereby sentenced to imprisonment for a term of six months. Warrant of arrest is hereby issued forthwith.

Dated, signed and delivered on 9th day of June 2014.

A. OMBWAYO

JUDGE