

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E&L NO. 74 OF 2014

SUSAN CHEMAIYO CHEPNGOMPLAINTIFF

VS

SAMMY KIPRONO KOECH.....DEFENDANT

(Application for injunction; plaintiff being title holder to suit land; alleged interference by defendant; application unopposed by defendant; order of injunction issued)

RULING

In her plaint, the plaintiff has pleaded that she is the registered proprietor of the land parcel Mogobich/Cheptililik/ Block 1/268. The land was partitioned from the land parcel Mogobich/Cheptililik/Block 1/86 which was registered in the name of Andrea Songoro Chepngom (deceased), the father to the plaintiff. Upon the demise of the proprietor, succession proceedings were undertaken, and the land was sub-divided and distributed to the heirs. That is how the plaintiff became proprietor of the land parcel Mogobich/Cheptililik/Block 1/268 which is the suit land. It is the case of the plaintiff that the defendant, who is a son to her late sister, has with impunity trespassed into her said land and destroyed tea crops on the land. It is said that the defendant has his own parcel of land being Mogobich/Cheptililik/ Block 1/269. In her suit, the plaintiff wants the defendant permanently restrained from the suit land.

Simultaneously with the plaint, the plaintiff filed an application for injunction, which is the subject of this ruling.

The defendant only entered appearance but has so far filed no defence. Neither did he respond to the application for injunction. The only material I have before me is therefore that tendered by the plaintiff. In her supporting affidavit, the plaintiff has annexed copies of the Certificate of Confirmation of a Grant issued in the succession proceedings and a copy of the title deed to the suit land. The latter shows that the plaintiff is the sole registered proprietor of the suit land.

I think from the material before me, the plaintiff has demonstrated a prima facie case with a probability of success. No doubt, she stands to suffer irreparable loss, unless I issue the injunction. The defendant has not tabled any material that would sway me to disallow this application.

I therefore allow the application for injunction. I bar the defendant from entering, being upon, utilizing, or in any other way interfering with the quiet possession of the plaintiff in the land parcel Mogobich/Cheptililik/ Block 1/268 until the final determination of this suit. The costs of the application shall be costs in the cause.

It is so ordered.

DATED AND DELIVERED AT ELDORET THIS 17TH DAY OF JULY 2014

JUSTICE MUNYAO SILA

ENVIRONMENT AND LAND COURT AT ELDORET

Delivered in the presence of:

Mr. P.K. Kibii holding brief for M/s Omondi for plaintiff/applicant.

N/A for M/s Lel & Bungei for defendant/respondent.