



**REPUBLIC OF KENYA**

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

**E&L NO. 193 OF 2014**

**LEAH JEPKORIR BII.....PLAINTIFF**

**VS**

**JULIUS KIMELI alias KITUR.....1ST DEFENDANT**

**IRENE CHELULEY T/A**

**VALLEY MAPS SURVEYORS ..... 2ND DEFENDANT**

***(Application for injunction; principles to be applied; applicant alleging that defendants have interfered with her property; no response from the defendants; application allowed)***

**RULING**

This suit was commenced by way of plaint filed on 10 June 2014. Together with the plaint, the applicant filed an application for injunction which is the subject of this ruling. Despite being served with the suit papers and the application for injunction all that the defendants have filed is an appearance. No defence and no response to the application have been filed and the only material before me is that presented by the plaintiff.

The case of the plaintiff is that she is the registered proprietor of the land parcel Pioneer/Langas Block 1/145. She has averred that the 1st defendant has hived off a portion of her land and has proceeded to uprooted the official beacons and has encroached into the land. He has also deposited building materials apparently in readiness for some development. The 2nd defendant is a surveyor and it is said that she is the one who allegedly pointed out the wrong location to the 1st defendant, and led the 1st defendant to believe that he is on his own land, whereas the land falls on a portion of the suit land owned by the plaintiff. The plaintiff has annexed the Registry Index Map of the area to demonstrate that the 1st defendant is claiming land that falls within the plaintiff's title.

As I stated earlier, the only material before me is that provided by the plaintiff. I think from the same, the plaintiff has demonstrated prima facie that she is the registered owner of the suit land. There is a probability that the defendants have encroached on land that properly belongs to the plaintiff. In my view, the defendants need to be stopped from attempting any sort of development or interference in the suit land or any portion said to fall within the suit land. I therefore allow the application for injunction. I issue the following orders :-

1. That an injunction is hereby issued stopping the defendants from trespassing into, erecting fences, uprooting beacons, placing new beacons, ploughing, selling, leasing or in any other way dealing or interfering with the land parcel Pioneer/Langas Block 1/145 or any portion claimed by the plaintiff as falling within the said land pending hearing and determination of this suit.
2. Cost of the application shall be costs in the cause.

It is so ordered.

**DATED AND DELIVERED AT ELDORET THIS 5TH DAY OF NOVEMBER 2014**

**JUSTICE MUNYAO SILA**

**ENVIRONMENT AND LAND COURT AT ELDORET**

*Delivered in the presence of:*

*Mr. M.K. Rop holding brief for Mr. C.F. Otieno for plaintiff.*

*Mr. J.K. Kiplagat holding brief for M/s Mwakio Kirwa for defendants.*