



**REPUBLIC OF KENYA**

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

**E&L 192 OF 2013**

**NGAMATE WANDONGU.....PLAINTIFF**

**VS**

**ESTHER NJOKI KIBUNJA.....DEFENDANT**

**RULING**

This is an application by the defendant seeking orders that she be allowed access to the land parcel Kapsaret/Kapsaret Block 1 (Yamumbi)/94 so as to allow her to harvest a maize crop which is on the said land.

This suit was instituted by way of plaint filed on 10 April 2013. In the plaint, the plaintiff sought orders to have the defendant permanently restrained from the suit land. Alongside the plaint, the plaintiff filed an application for injunction. I heard the application for injunction and through a ruling delivered on 8th May 2013, I allowed the application for injunction and ordered the defendant to stay away from the suit land pending hearing and determination of the main suit.

In this application, the plaintiff has stated that she planted the maize crop on the land believing that the land was her own and that she planted the crop before this suit was filed. She has stated that the maize crop was meant for her subsistence and is going to waste.

The defendant has not filed anything to oppose the application. Neither did his counsel appear in court at the inter-partes hearing of the application.

I would probably have had a problem with the prayers sought herein if the plaintiff had protested owing to the fact that I had already earlier restrained the defendant from the suit land. But it seems as if the plaintiff has no problem with the orders herein being issued. The plaintiff does not seem interested in the maize crop on the suit land and if I do not allow the application, it may very well be that the crop will go to waste. In the circumstances, I allow the application and permit the defendant to access the suit land solely for purposes of harvesting the maize crop that she planted. She must harvest the crop on or before the 4th day of December 2013. Upon harvesting the crop, the defendant ought not to interfere any further with the suit land pending hearing and determination of this suit as ordered on 8th May 2013.

I make no orders as to costs.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF NOVEMBER 2013

**JUSTICE MUNYAO SILA**

**ENVIRONMENT AND LAND COURT AT ELDORET**

***Read in open Court***

***In the Presence of:-***

***Miss J.C. Tarus h/b for Miss Mufutu for dependent/applicant***

***N/A for M/s J.K. & Co for Plaintiff/Respondent***

