



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**MERU ELC CASE NO. 37 (OS) OF 2019**

**MARGARET MUKONATHO.....PLAINTIFF**

**VERSUS**

**THE ATTORNEY GENERAL.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**DLASO .....2<sup>ND</sup> DEFENDANT/RESPONDENT**

**LAND ADJUDICATION OFFICER.....3<sup>RD</sup> DEFENDANT/RESPONDENT**

**CHIEF GIITHU LOCATION.....4<sup>TH</sup> DEFENDANT/RESPONDENT**

**NAHASHON KARUTI.....5<sup>TH</sup> DEFENDANT/RESPONDENT**

**RULING**

1. This application was heard exparte in chambers in the absence of the applicant due to Covid-19 concerns.
2. The application seeks the following orders:
  1. This Ho. Court be pleased to issue an order of evicting the respondent from the applicant's land parcel No. 2411 Githuu Adjudication.
  2. This Hon. Court further do issue an order compelling the respondent/defendant to demolish a building which he is continuing with construction and leave the applicant's land as it was before.
  3. The Hon. Court to issue an order compelling O.C.S Mikinduri Police Station to implement the Hon. court order of eviction.
3. The application has the following grounds:
  - a) The respondent/defendant is continuing with construction of his house violently in the applicant/plaintiff's land despite the matter is pending in court.
  - b) The applicant/plaintiff is continuing to suffer irreparable loss and damages.

4. The application is supported by the plaintiff/applicant's undated affidavit filed on **11<sup>th</sup> December, 2020**. The affidavit states as follows:

**1, Margaret Mukonathu of P.O. Box 23-60200 Meru** in the Republic of Kenya make oath and state as follows:-

1. That I am the applicant/plaintiff herein hence competent to make and swear this affidavit and well versed on the facts of the following:-

2. That there is a sabotage of justice to help continuation of developments in suit land parcel No. 2411 Githu Adjudication Section for non-eviction court eviction (sic) order by pretences of determination of main suit.

3. That further there is an obstruction of justice to help development on the suit land parcel No. 2411 Githu Adjudication Section by delaying tactics to deliver justice.

4. That the action taken by the 4<sup>th</sup> respondent/defendant for continuing with development of building constructions on the suit land is motivated by malice and is to proof sabotage of justice by delaying tactics.

5. That there is a failure of justice and gross misjustice for non-eviction court order and court order restraining the 4<sup>th</sup> respondent/defendant from making developments and trespassing in the suit land.

6. That according to the action taken by 4<sup>th</sup> respondent/defendant to continue trespassing and making developments in myland is a true evidence of sabotage of justice to deliver justice.

7. That I make and swear this affidavit the contents being true to the best of my knowledge, information and belief praying this Hon. court to issue an order of eviction and an order restraining the 4<sup>th</sup> respondent/defendant from trespassing in L.R. No. 2411 Githu Adjudication Section being my land.

5. I do note that in her ruling delivered on **21<sup>st</sup> October, 2020**, the Hon. Lady Justice Mbugua, ELC Judge at Meru, declined to grant orders to evict the defendant as she feared that such orders would amount to giving final orders before the suit is heard and determined. I do not wish to speculate if or if not prayer 2 falls in a similar category. This is because I will direct that this application be heard by the Hon. Lady Justice Lucy Mbugua, who has handled this matter before and who is still in station at Meru.

6. I issue the following orders:

a) The applicant should serve this application upon the respondents within 10 days of today.

b) The application will be heard interpartes by the Hon. Lady Justice Mbugua, ELC Judge at Meru, on **21<sup>st</sup> January, 2021**.

Delivered at Chuka this **15<sup>th</sup> day of December, 2020** in the presence of:

CA: Ndegwa

Applicant to obtain a copy of the ruling at Meru Law Courts.

**P. M. NJOROGE,**

**JUDGE.**



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