

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(IN THE DISTRICT REGISTRY)  
AT ARUSHA**

**MISC- LAND APPLICATION NO. 86 OF 2017**

*(Originating from Land Case No. 45 of 2017)*

**ELIAWINGA NDEWARIO.....APPLICANT**

**VERSUS**

**EMMANUEL NDEWARIO.....1<sup>ST</sup> RESPONDENT**

**MOSSES NDEWARIO.....2<sup>ND</sup> RESPONDENT**

**RULING.**

**S.M. MAGHIMBI, J:**

This Ruling emanates from an application filed by the applicant under the provisions of Order XXXVII Rule 1(a) and Section 68(e) of the Civil Procedure Code, Cap. 33 R.E 2002 (The CPC). The application is supported by an affidavit of the first applicant, Eliawinga Ndewaro dated 05<sup>th</sup> July, 2017. The orders sought in this application are pending the determination of the Land Case No. 45/2017 which is pending before this court. In her Chamber summons, the applicant sought for the following orders:

1. That this Honorable Court be pleased to grant temporary injunction order restraining the defendants, their agents/servants from entering or doing any sort of improvements in the land measuring 4 acres located at Kikwe area Arumeru District, pending determination of the main suit filed before this Honorable Court.
2. Any other order or reliefs this Honorable Court may deem just to grant.

By an order of this court dated 11/04/2018 the application was disposed by way of written submissions. In her submissions the applicant demonstrated the source of the dispute,

Having gone through the parties submissions to and against the application, I find that the applicant has demonstrated sufficient reasons to warrant this court to use its discretion to grant the orders sought. There are triable issues as to the ownership of the disputed property and the applicant has claimed to have been using the suitland for her daily needs. For that reason this application is hereby granted. The following orders are issued:

1. The defendants, their agents/servants are hereby restrained from entering or doing any sort of improvements in the land measuring 4 acres located at Kikwe area Arumeru District, pending determination of the main suit which is Land Case No. 45/2017 or this order is otherwise barred by the operation of the law.
2. Costs of this application shall follow cause in the main Land Case No. 45/2017 pending before this court.

Dated at Arusha this 29<sup>th</sup> day of August, 2018



A handwritten signature in black ink, appearing to be "S. M. Maghimbi", written over a horizontal dotted line.

**S. M. MAGHIMBI**  
**JUDGE**