



**IN THE SUPREME COURT OF NAURU  
AT YAREN  
CIVIL JURISDICTION**

**Civil Case No. 06 of 2025**

**BETWEEN : JILLIAN KEMP of Meneng District, Nauru.**

**Applicant**

**AND : ELENA KEPAE of Meneng District**

**Respondent**

**BEFORE: Keteca J**

**DATE OF HEARING: 02<sup>nd</sup> May 2025**

**DATE OF RULING: 02<sup>nd</sup> May 2025**

**CITATION: Kemp v Kepae**

**KEYWORDS: Interlocutory Injunction**

**APPEARANCES:**

**COUNSEL FOR the  
Applicant:**

**R. Tagivakatini**

**RULING**

**BACKGROUND**

1. This is an *ex-parte* application by the Applicant for an interim injunction against the Respondent. Amongst others, she seeks the following:
  - i. The Respondent, her servants and agents stop the building works on land known as 'Eatetowae, Ibogetubon' Land Portion 206, Baiti District as it has encroached onto the Applicant's land;
  - ii. The Respondent, her servants and agents remove all building materials that have encroached onto the land known as 'Eatetowae, Ibogetubon' Land Portion 206, Baiti District.
2. In an affidavit filed on 29<sup>th</sup> April 25, Daniel Eoe, the father of the Applicant states:
  - a. He is the father of the Applicant and the Secretary for the Department of Multicultural Affairs. His father, Kemp Eoe is the landowner of the parcel of land described as:

- i. Land Portion: 206;
- ii. Land Name: 'Eatetowae, Ibogetubon'
- iii. Baiti District
- b. The respondent is a landowner of land described as:
  - i. Land Portion: 163;
  - ii. Land Name: Eatetowong;
  - iii. Baiti District.
- c. The Applicant obtained the consent of landowners to construct a dwelling house on Land Portion 206 through the Department of Lands and Survey on 14<sup>th</sup> July 2023. Government surveyors erected pegs to mark the boundaries of Land Portion 206 in relation to Land Portion 163.
- d. Upon the government surveyors visit to Land portion 206, they discovered that the Respondent, landowner of Land Portion 163, had erected a concrete foundation, measuring 80 square meters, that encroached onto Land Portion 206.
- e. Several mango trees have been cleared from Land portion 206.
- f. He approached and advised the Respondent that her foundation clearly encroaches onto Land portion 206 and showed her the relevant boundary map, land card, survey markings and consent forms. The Respondent ignored these.
- g. He sought the assistance of the Police who advised that they need a court order.
- h. The actions of the respondent have greatly inconvenienced him, his daughter and her fiancé.
- i. He believes that:
  - i. There is a serious question to be tried here- on the consent to build. The Applicant has obtained this.
  - ii. The Applicant will suffer irreparable damage as she won't be able to build her house on Land Portion 206.
  - iii. The balance of convenience in the Applicant's favour.

## THE LAW

3. In *Castlemaine Tooheys Ltd v South Australia* [1986] HCA 58; (1986) ALR 553, at 557, ACJ Mason said:  
*'The principles governing the grant or refusal of interlocutory injunctions in private law litigation have been applied in public law cases, including constitutional cases, notwithstanding that different factors arise for consideration. In order to secure such an injunction the plaintiff must show (1) that there is a serious question to be tried or that the plaintiff has made out a prima facie case, in the sense that if the evidence remains as it is, there is a probability that at trial of the action the plaintiff will be entitled to relief; (2) that he will suffer irreparable injury for which damages will not be adequate compensation unless an injunction is granted; and that the balance of convenience favors the grant of an injunction.'*
4. Considering the evidence submitted by the Applicant, I find as follows:
  - i. The Applicant does have a serious question to be tried here.
  - ii. She will suffer irreparable damage and damages will not provide adequate compensation.
  - iii. The balance of convenience favours the Applicant.
5. I grant the interlocutory injunction sought by the Applicant.

## ORDERS

1. The Respondent, her agents and servants are restrained from entering Land Portion 206 where the surveyors have clearly marked the Applicants boundaries;
2. The Respondent, her agents and servants are to stop any building on their foundation that encroaches onto Land Portion 206;
3. The Applicant is to serve this order, the Motion, affidavit, and Writ of Summons in Civil Case No. 06/2025 on the Respondent by 4pm tomorrow.
4. The Respondent is to file and serve her Statement of Defence within 14 days from the date of this Ruling.
5. Costs reserved.

Dated this 02<sup>nd</sup> Day of May 2025

  
Kiniviliame T. keteca

Judge

