



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

SIAYA CIVIL CASE NO.E06 OF 2021

ORIGINATING FROM

VIHIGA HIGH COURT

CIVIL CASE NO. E001 OF 2021

WILLY TSIALANGO IMBITI.....1ST APPLICANT/PLAINTIFF

MOSES AYODI TSIALANGO.....2ND APPLICANT/PLAINTIFF

VERSUS

MOLYN CREDIT LTD.....1ST DEFENDANT

JAKACHA AUCTIONEERS.....2ND DEFENDANT

RULING

1. I have heard Mr. Chitwa advocate for the Applicant/Plaintiff orally and I have considered the application dated 24/3/2021 seeking to be heard during the recess, under Certificate of urgency. I note that the subject matter of this suit filed at Vihiga High Court is immovable property and is due for sale on 26/3/2021 at 10.30 a.m. The matter is therefore urgent.
2. I certify it as urgent and direct that the application be considered during the Easter Recess.
3. On the main prayers in the Notice of Motion, I observe that the property to be sold is land and there are contradictory statements on what the applicants owe the 1st Respondent to date. The applicants also claim that no notice of default was sent to them after rescheduling the loan repayment following the effects of covid-19 pandemic. Further, that the applicants paid the outstanding loan plus interest hence the over Kshs. 4,000,000 is unjustified.
4. In my humble view, the applicant has established, on a balance of probabilities, a prima facie case to warrant an interim temporary order of stay of sale of the property known as **LR No. North Maragoli/Lyadyuwa/2143** registered in the name of **Willy Tsialando Imbiti**.
5. For the above reasons, and in the interest of justice, as redeeming a sold land is not an easy task, I hereby allow prayer No. 2 of the Notice of Motion dated 24/3/2021 in the interim and order that:

(1) There shall be a temporary order of injunction restraining the defendants Molyn Credit Ltd and Jakacha Auctioneers, their agents, assigns or their representatives from advertising for sale, selling, disposing of or otherwise interfering or dealing with land Parcel No. LR No. North Maragoli/Lyadyuwa/2143 pending interpartes consideration of this application on 8th April, 2021 before the duty Judge in Kakamega High Court.

6. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA, THIS 25TH DAY OF MARCH 2021

R.E. ABURILI

JUDGE

In the presence of:

Mr. Chitwa Advocate for the applicant

CA: Modestar and Mboya