



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
SUCCESSION CAUSE NO 2 OF 2014
IN THE MATTER OF THE ESTATE OF DEDAN NDIRITU WAMBUGU....(DECEASED)

VERSUS

JULIUS NJUGUNA.....1ST RESPONDENT

PETER MAINA.....2ND RESPONDENT

RULING

1. The application before court is dated 3/5/19. The prayers sought are;

1. Spent

2. **THAT** this Honourable Court be pleased to grant conservatory orders injunction the Respondents from interfering with the estate of the deceased especially Parcel No BAHHATI/KABATINI BLOCK 1/223 pending the hearing and determination of this Application.

3. **THAT** cost of this application is borne by the Respondent.

2. The same is premised on the following grounds;

a. **THAT** the plaintiff/Applicant is the beneficial owner of all that parcel of land known as BAHATI/KABATINI BLOCK 1/223.

b. **THAT** applicant acquired the said property vide Nakuru succession cause No 2 of 2014.

c. **THAT** the said property belonged to the late Dedan Nderitu Wambugu her brother.

d. **THAT** the Respondents have illegally encroached on the said land parcel.

e. **THAT** the respondents without permission from the applicant are in the process of transferring selling and/or tempering with land parcel known as BAHATI/KABATINI BLOCK 1/223.

f. Despite several complaints made before the area chief to intervene the respondent have remained adamant hence this suit.

3. It is supported by the affidavit of Lucy Wanjiku.

4. Despite evidence of proper service, the application was not opposed.

5. The gist of the application is that the applicant is the owner through transmission of land parcel No Bahati/Kabatini Block 1/223 pursuant to a certificate of confirmation of granted dated 2/2/18. (Annexline L.W.1).

6. It is urged that without colour of right the respondents have forcefully invaded the said parcel of land and are in the process of selling and/or tampering with the said land.

7. Efforts to report the matter to the area chief and village elders did not bear a solution.
8. It is sought that the respondents be restrained from their illegal acts.
9. I have considered the application, the grounds raised and the supporting affidavit.
10. The evidence before court is crystal clear land parcel No Bahati/Kabatini Block 1/223 was shared out in whole share to Lucy Wanjiku, the applicant vide a certificate of confirmation of grant dated 2/2/18.
11. This evidence has not been controverted and neither is there any iota of evidence giving justification to the respondents to interfere with the land.
12. In the circumstances, the injunction orders sought is merited.
13. I find for the applicant and make the following orders;

1. The application dated 3/5/19 is allowed.

2. The respondents be and are hereby by way of a permanent injunction restrained from interfering with parcel No Bahati/Kabatini Block 1/223.

3. Noting that the application was not opposed, I make no orders as to costs.

Dated and Delivered at Nakuru this 20th day of JUNE 2019.

A. K. NDUNG'U

JUDGE