



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**MILIMANI LAW COURTS**

**ELC CASE NO.528 OF 2015**

**SAMUEL GITHINJI KABARU.....APPLICANT**

**=VERSUS=**

**KARIOBANGI SOUTH CHIEF & 4 OTHERS....RESPONDENT**

**RULING**

1. This is a ruling in respect of a notice of motion dated 23<sup>rd</sup> February 2018, brought by the plaintiff/applicant. The applicant seeks injunctive orders against the respondents in respect of plot Nos.371 and 385. He also seeks an inhibition order to be issued to be registered against the title in respect of the two plots.
2. The applicant contends that he came to Court in 2015 when the respondents started interfering with the two plots. He obtained temporary injunction orders which were served upon the respondent who did not obey the same. His former Advocates filed contempt proceedings which were however halted in a bid to expedite the hearing of the main suit.
3. The applicant further states that the respondents later in 2018 started interfering with his two plots; that if there is no order of injunction and inhibition granted, the two plots will cease to exist as the respondents are going on with subdivision.
4. The 2<sup>nd</sup> to 5<sup>th</sup> respondents have opposed the applicant's application through a replying affidavit sworn on 17<sup>th</sup> April 2018. The respondents contend that the applicant's application is res-judicata in that a similar application was ruled on in this matter; that the plots in KCC Village have not been demarcated and that therefore it is not possible for one to subdivide the plots which are very small and occupied by squatters whom the County Government through its predecessor had recommended that there be formalization of the informal settlement.
5. I have considered the applicant's application as well as the opposition thereto by the respondents. The issue for determination is whether this application is res-judicata and whether any orders of inhibition should be given. It is clear that this application is res-judicata. This Court delivered a ruling in respect of a similar application by the applicant. The ruling was delivered on 13<sup>th</sup> April 2017. The ruling dismissed the applicant's application dated 5<sup>th</sup> June 2014 and discharged the injunction orders which had been granted.
6. The applicant's present application is seeking the same reliefs and has pretended not to have any knowledge of the Court's ruling because he keeps referring to orders which were given in 2015 orders which have since been discharged. The two plots which the applicant is referring to are not registered and no inhibition can be issued in the circumstances. I find that this application is not only res-judicata but lacks merit as well. I proceed to dismiss the same with costs to the respondents.

It is so ordered.

**Dated, Signed and delivered at Nairobi on this 27<sup>th</sup> day of September 2018.**

**E.O.OBAGA**

**JUDGE**

In the absence of parties who were aware of the date and time of delivery of ruling.

Court Assistant: Hilda

**E.O.OBAGA**

**JUDGE**