

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 2644 OF 1993(OS)

JAMES KAMURU KAMAU.....PLAINTIFF/RESPONDENT

VE R S U S

LUCY MUTHONI KABATA.....1ST DEFENDANT

JOHN KAMAU KABATA 2ND DEFENDANT

RULING

1) James Kamuru Kamau, the plaintiff/applicant herein took the motion dated 14th September 2016 in which he sought for an order to have the prohibitory order registered against L.R. no. Nyandrua/Njabini/465 as entry no. 3 on 21.6.1980, to be removed.

2) The motion is exparte in nature and is supported by the affidavit of the plaintiff/applicant.

3) I have considered the grounds stated on the face of the motion and the facts deponed in the supporting affidavit. It is the submission of the plaintiff/applicant that he filed Nairobi R.M.C.C.C no. 2116 of 1978 claiming for payment of ksh.7,000/= from Kabata Macharia now deceased, being a refund of part purchase price of a piece of land which Kabata Macharia had agreed to sell to the plaintiff but later refused to complete the transaction. The suit was eventually decided in favour of the plaintiff on 29th January 1980.

4) The plaintiff filed this suit in which he sought to be declared to have acquired 5 acres to be excised from L.R. No. Nyandarua/ Njabini/465. The plaintiff successfully vide Nairobi R.M.C.C.C. no. 2116 of 1978 obtained a prohibitory order registered against the aforesaid title on 21.6.1980. This suit was heard and determined in favour of the plaintiff as prayed in the amended Originating Summons dated 28th January 1999 vide the ruling of Justice Lenaola delivered on 21st January 2004.

5) The purpose of the prohibitory and inhibitory orders were to preserve the suit land until the aforesaid suits are heard and determined. I am satisfied that the suits have now been concluded hence there is no need for the prohibitory order to continue subsisting. I find the motion dated 14.09.2016 to be meritorious.

6) It is allowed as prayed with no order as to costs.

Dated, Signed and Delivered in open court this 27th day of January, 2017.

J. K. SERGON

JUDGE

In the presence of:

..... for the Appellant

..... for the Respondent