

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

MATRIMONIAL PROPERTY CAUSE NO 6 OF 2016

R W G.....PLAINTIFF

VERSUS

P G M (alias G M).....DEFENDANT

R U L I N G

1. In her originating summons dated 27/07/2016 the Plaintiff seeks against the Defendant declarations and other orders regarding certain properties that she has pleaded are matrimonial properties acquired by their joint effort during subsistence of their marriage over many decades. They are still married.

2. Together with the originating summons the Plaintiff filed **notice of motion dated 27/07/2016** seeking temporary orders to ensure her access to some tea-bushes in one of the properties and peaceful occupation of her home in another property. The application is supported by the Plaintiff's affidavit annexed to the application.

3. The Defendant did not file any papers in response to the application; but he was present in court on 28/02/2017 when the application came up for hearing. He declined more time offered to him by court to file papers or hire the services of an advocate. He declared loudly that he would not file any papers; that he would not hire the services of an advocate; that he did not recognise the authority of the court to hear the dispute between him and his wife; and that the dispute ought to be referred to their local **headman** and elders for arbitration. On her part the Plaintiff declined such arbitration, pointing out that it had been attempted before without any outcome.

4. I have read the application and supporting affidavit. I have also considered the submissions of the Plaintiff's learned counsel and those of the Defendant.

5. The parties are an elderly couple who have been married since the year 1951. It is a pity that they have fallen out in their sunset years. The Defendant has another wife. He and his two wives have a total of 17 children, all adults.

6. I am satisfied from the material now before the court that pending disposal of the main cause, the Plaintiff needs the protection of the court for peaceful occupation of her home in land parcel LR LOC 8/GATARA/[particulars withheld] and peaceful access to her tea bushes on land parcel LR LOC 2/GACHARAGE/[particulars withheld]. I will therefore grant prayers 2 and 3 in the notice of motion, the orders to remain in place pending disposal of the suit or the further order of the court. It is so ordered. Costs of the application shall be in the cause.

DATED AND SIGNED AT MURANG'A THIS 11TH DAY OF MAY 2017

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 19TH DAY OF MAY 2017