



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**E&L CASE NO. 131 OF 2013**

GLADYS NYOROKA KIREMA .....PLAINTIFF/APPLICANT

VERSUS

JACOB M'RIMBERIA M'RIONGU.....DEFENDANT/RESPONDENT

**RULING**

This Application is dated 20th May, 2013 and seeks orders that:-

- a. *The application BE certified urgent and BE heard ex parte and on priority in the first instance.*
- b. *The Honourable Court BE pleased to grant an Order of inhibition to restrain the respondent and the Land Registrar Meru from registering any dealings in respect of the suit land No. NTIMA/IGOKI/1075 or any of its subdivisions namely No. NTIMA/IGOKI/ 7400-7405 pending hearing and determination of the application interpartes.*
- c. *The Honourable Court BE pleased to grant an Order of inhibition to restrain the respondent and the Land Registrar Meru from registering any dealings in respect of the suit land No. NTIMA/IGOKI/1075 or any of its subdivisions namely NO. NTIMA/IGOKI/7400-7405 pending hearing and determination of the main suit.*

**OR**

- d. *An Order of temporary injunction DO issue restraining the respondent by himself, his agents and servants from interfering with the suit land by either evicting the Plaintiff and her family from thereon, transferring, selling or leasing the suit land pending hearing of the application interpartes.*
- e. *An Order of temporary injunction DO issue restraining the respondent by himself, his agents and servants from interfering with the suit land by either evicting the Plaintiff and her family from thereon, transferring, selling or leasing the suit land pending hearing of the main suit.*
- f. *Costs of the application be provided for.*

The application is buttressed by the affidavit of Gladys Kirema Nyoroka and has the following grounds:-

- a. *The suit land is family land in trust by the defendant/respondent on behalf of the plaintiff and other members of the family.*
- b. *The Plaintiff is in possession of a portion of the suit land.*

- c. *The defendant/respondent has threatened to evict the plaintiff/applicant and share out the land to other family members to the exclusion of the Plaintiff/Applicant.*
- d. *The Plaintiff/Applicant and her family are likely to be evicted from the land and rendered landless unless the orders sought in this motion are granted.*
- e. *It is in the interest of justice that the application be granted.*

On 07/06/2013 when the application came to Court for the 1st time, the applicant was not in Court. When the matter next came to Court the applicant's Advocate was not in Court but sent Advocate Mutunga to hold his brief. There was no evidence that the application had been served upon the respondent. The application was given 20/04/2014 as the hearing date interpartes, Both parties did not come to Court.

During the date slated for hearing Interpartes, today, the respondent's Advocate was not in Court. The applicants' Advocate was also not in Court but sent Advocate Kimathi to ask the Court to transfer this suit to the CM'S Court, Meru for hearing and determination.

I do note that today's hearing date was fixed in the presence of representatives of both parties on 27/01/2016. It is clear that there is no desire by both parties to have the application heard and determined expeditiously. The application was filed in June, 2013, almost 3 years ago.

I find it necessary to dismiss the application with costs to be in the cause. I direct the Plaintiff to comply with order 11, CPR, within 30 days. The defendant is directed to comply with Order 11, CPR, within 30 days after service upon him of the Plaintiffs' compliance documents. Upon achievement of compliance, parties will obtain a mutually convenient date for directions from the registry. In the interests of justice, however, and in terms of Section 63, CPA, I order that an Order of Inhibition be registered against Land Parcel No. NTIMA/IGOKI/1075 and its subdivisions Nos. NTIMA/IGOKI/7400 -7405.

It is so ordered.

Delivered in Open Court at Meru this *23rd day of February, 2016* in the presence of:

CC: Daniel/Lilian

Kimathi h/b Ndubi for Plaintiff

**P. M. NJOROGE**

**JUDGE**