



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT EMBU**

**CIVIL CASE NO. 74 OF 2008**

**LUKE NJIRU KAGEKI..... ..APPLICANT/PLAINTIFF**

**VERSUS**

**INDUSTRIAL AND COMMERCIAL DEV CORP..... RESPONDENT/DEFENDANT**

**AND**

**EDWIN NYAGA NYAMURA.....INTERESTED PARTY**

**RULING**

1. This is an application brought under certificate of urgency by the applicant/plaintiff. It is supported by the grounds on the face of the notice of motion. The applicant also relies on his supporting affidavit. According to the applicant's affidavit, he has stated that he is the plaintiff in the main suit and is the owner of land parcel No. Weru/Kagaari/1544, on which his family and himself depend for their subsistence. According to him, the respondent purported to sell the suit land pursuant to a chargee's statutory power of sale. It is his affidavit evidence that he did not owe any money to the respondent.
2. Furthermore, he has also stated in the affidavit that the court declared the purported sale illegal, null and void and that the proposed second defendant (herein the interested party) colluded with the respondent to have the title register reflect his name as the proprietor of the suit land. He has further stated that between 20th May 2016 and 24th May 2016, unknown persons appeared on the land claiming that they wished to view it, since they had been told that the land was up for sale. It is also his affidavit evidence that the respondent had gone public to state that the suit land was in his possession.
3. According to the applicant, the respondent has tried unlawfully to dispossess the applicant of his land and has now renewed his attempts to alienate the land from the possession of the applicant. This was an *ex-parte* application and counsel made oral submissions in support of the application.
4. I have considered the affidavit evidence and the annexes to the affidavit. I find that this application should be heard inter partes in view of the issues raised by the applicant.
5. The applicant is therefore directed to serve the other parties and have the matter set down for hearing as soon as it is practicable.

**RULING DATED, SIGNED and DELIVERED** in open court at **EMBU** this **8<sup>th</sup>** day of **JUNE 2016**

In the presence of Ms Njiru holding brief for Mr. Karuti for the plaintiff and Ms Migwi holding brief for Ms Wairimu for the defendant

Court clerk **R. Njue**

**J.M. BWONWONGA**

**JUDGE**

**08.06.16**