



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

ENVIRONMENT AND LAND CASE NO. 156 OF 2016

KIGURU MUIGA.....PLAINTIFF

VERSUS

SERAPHINA WANGUI MURITHI.....1ST DEFENDANT

PENENA NKATHA2ND DEFENDANT

WINFRED MWENDWA.....3RD DEFENDANT

CHARLES KOBIA.....4TH DEFENDANT

DISTRICT LAND REGISTRAR5TH DEFENDANT

HON. ATTORNEY GENERAL.....6TH DEFENDANT

J U D G M E N T

1. In his Complaint dated 2nd September, 2016 the Plaintiff prays that judgment be entered against the Defendants jointly and severally for:-

(a) An order of permanent injunction restraining the 1st, 2nd 3rd and 4th defendants from putting up a building , entering into the suitland, selling, transferring and/or in any way interfering with the Plaintiff's proprietary rights over land parcel number MERU MUNICIPALITY BLOCK 11/17.

(b) A declaration that the Plaintiff herein is the legal owner of all the parcel of land known as MERU MUNICIPALITY BLOCK 11/17 and an order of cancellation of the 2nd, 3rd and 4th defendants' title deed and its restoration to the Plaintiff.

(c) Costs of this suit.

(d) Any other better relief the Honourable Court deems fit.

2. On 08/09/2016, at the ex parte stage during the hearing of a Notice of Motion application dated 02/09/2016 filed by the Plaintiff an Interim Order was granted that inhibited all dealings in relation to land parcel number MERU MUNICIPALITY BLOCK 11 /17 pending hearing and determination of the application.

3. The Court ordered that this Application be heard on 15/09/2016.

4. When the Application came up for interpartes hearing, the Court found the need for the Plaintiff and the Defendants to file appropriate Affidavits concerning the apparent forgery in the pleadings filed by the Plaintiff concerning the title for Land Parcel Number MERU MUNICIPALITY BLOCK 11/17. It was clear to the Court that the Interim Order for Inhibition obtained at the exparte stage had been obtained fraudulently through the tendering of a forged document by the Plaintiff .

5. On 20/09/2016, the parties proffered a Consent dated 16/09/2016 and signed by their Advocates which was in the following terms:-

“By Consent of the parties and their respective Advocates:

i. The Plaintiff's suit be and is hereby withdrawn.

ii. THAT there be judgment entered in terms of the counter-claim herein and the inhibition and/or caution placed on Parcel No. MERU MUNICIPALITY BLOCK 11/17 be and is hereby lifted.

iii. THAT each party bears his/her own costs.

6. This Consent is adopted as an order of this Court. Consequently it is ordered as follows:-

i. JUDGMENT is entered in terms of the Counter-Claim in this Suit and the inhibition and/or caution placed on Parcel No. MERU MUNICIPALITY BLOCK 11/17 be and is hereby lifted.

ii. Parties to bear own costs.

7. It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 20TH DAY OF SEPTEMBER, 2016 IN THE PRESENCE OF:

CA: Daniel/James

Kiogora Mugambi for the Plaintiff

Muia Mwanzia for 1st to 4th Defendants

Kiongo for 5th to 6th Defendants.

P. M. NJOROGE

JUDGE