



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

ELC NO. 19 OF 2016

**EZEKIEL MIRITI (SUING ON BEHALF OF THE ESTATE OF M'IBUI
M'LINGERA M'MUTHUIBA).....APPLICANT/RESPONDENT**

VS

JOHN MATI AND 4 OTHER.....DEFENDANTS/RESPONDENTS

RULING

1. This application is dated 13th April, 2016 and seeks orders;

1. That the honourable court be pleased to certify this application as urgent and hear it ex-parte in the first instance.

2. That the Honourable court be pleased to issue an order of injunction restraining the 1st and 2nd defendants/respondents, whether by themselves and/or their servants, assignees or anyone else acting at their behest from entering, dealing in whatever manner or interfering with plaintiff's occupation of land parcel No. KANGETA/KANGETA/7946 and 2627 pending the hearing and determination of this application.

3. That the Honourable court be pleased to issue an order of injunction restraining the 1st and 2nd defendants/respondents, whether by themselves and/or their servants, assignees or anyone else acting at their behest from entering, dealing in whatever manner or interfering with plaintiff's occupation of land parcel No. KANGETA/KANGETA/7946 and 2627 pending the hearing and determination of this suit.

4. That the honourable court be pleased to issue inhibition orders against any further dealing in land parcel No. Kangeta/Kangeta/7946 and 2627 pending the hearing and determination of this application.

5. That the honourable court be pleased to issue inhibition orders against any further dealing in land parcel No. Kangeta/Kangeta/7946 and 2627 pending the hearing and determination of this matter/or until further orders of this court.

6. That costs of this application be provided.

2. The application is supported by the affidavit of Ezekiel Miriti and has the following grounds;

1. THAT the plaintiff and his family are in occupation of land parcel No. Kangeta/Kangeta 2627 and 7946.

2. The 1st defendant who is brother to the plaintiff colluded with the 3rd and 4th defendants to have the suit land transferred to him and sub-divided the same fraudulently, illegally and without filing a succession cause or without knowledge or consent of the family of the deceased and transferring part of the same to the 2nd defendant.

3. The 1st and 2nd defendant have threatened to evict the plaintiff and his family from the suit land which is the Plaintiff's share of their deceased father's land.

4. The Plaintiff is in occupation and use of the Suitland and further has extensively developed the same.

3. Mr Mutembei, for the plaintiff/applicant told the court that the defendants have not responded to his application even though it was served upon them way back in April, 2016. He asked the court to allow the application.

4. Mr Kimathi for the 3rd, 4th and 5th defendants told the court that he was not opposed to the application being allowed.

5. I agree that the defendants are guilty of inordinate delay in responding to the application. I note that interim orders in terms of prayers 2 and 4 were granted on 14/4/2016 over seven months ago.

6. In the circumstances, I do allow the application. Prayers 3 and 5 are granted.

7. Costs shall be in the cause.

8. It is so ordered.

Delivered in open court at Meru this 30th day of November, 2016 in the presence of :

C.A Daniel /James

Mburugu for Mutembei for applicant

P. M. NJOROGE

JUDGE