



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KERICHO**  
**ENVIRONMENT AND LAND DIVISION**

**E.L.C CASE NO.56 OF 2014**

**PAULINA CHEMUTAI CHIRCHIR.....PLAINTIFF**

**VERSUS**

**KIPYEGON ARAP SANG & 3 OTHERS..... RESPONDENTS**

**RULING**

***(Application for injunction; application not opposed; plaintiff having been awarded 3.75 acres in succession proceedings; respondents having sub-divided land and having obtained titles before the filing of succession proceedings; application for injunction allowed; there be no interference with the plaintiff's 3.75 portion pending hearing of the suit)***

The application before me is that dated 17th February, 2015 filed by the plaintiff. It is an application for injunction brought inter alia under the provisions of **Order 40 Rule 1** of the **Civil Procedure Rules, 2010**. Essentially, the plaintiff wants the defendants restrained from entering, selling, or disposing 3.75 acres comprised in the land formerly known as Kericho/Chemagel/822 now Kericho/Chemagel/2870, 2871 and 2872.

The case of the plaintiff is that she is a beneficiary of the estate of one Kipsang Chirchir (deceased) who died on 13 June 1996. The said Kipsang Chirchir owned the land parcel Kericho/Chemagel/822 measuring 15 acres. His estate was subjected to succession vide Kericho High Court Succession Cause No. 137 of 2007. The grant was confirmed on 30th July, 2014 with 3.75 acres being granted to the plaintiff. Of the balance, 7.5 acres was granted to Kipyegon Sang, 1st respondent, and 3.75 acres to Maria Tapsagaa Chirchir, 2nd respondent. However, the plaintiff has discovered that on 9 March 2001, the four respondents sub-divided the land parcel Kericho/Chemagel/822 into the parcels Kericho/Chemagel/2870, 2871 and 2872. It is further her case, that after the confirmation of the grant of letters of administration, she approached the 1st and 2nd respondents to effect transfer of her 3.75 acres but her pleas were ignored. In the suit, the plaintiff wants the titles to these three sub-divisions cancelled as they were obtained fraudulently.

Despite being served with the subject application, the defendants have not filed any response to it.

I have seen for myself that the land parcel Kericho/Chemagel/822 was transmitted on 30 July 2014 when the grant of letters of administration was confirmed. 3.75 acres thereof were transmitted to the plaintiff. *Prima facie*, the sub-division of the said land before the filing of succession proceedings is illegal. The plaintiff to me has established a *prima facie* case with a probability of success. I see no reason why I should not allow this application.

I therefore make the following orders :-

*(1) That pending the hearing and determination of this suit, there is hereby issued an order of inhibition, barring the registration of any disposition in the register of the land parcels Kericho/Chemagel/2870, 2871 and 2872.*

*(2) That pending the hearing and determination of this suit, there be no interference whatsoever on the plaintiff's assigned 3.75 acres in the original land parcel Kericho/Chemagel/822, in accordance with the confirmed grant issued in Kericho High Court Succession Cause No. 137 of 2007.*

*(3) That the plaintiff shall have the costs of this application.*

It is so ordered.

**DELIVERED, DATED AND SIGNED AT KERICHO THIS 27TH DAY OF MARCH, 2015.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**In the presence of**

Mr. Charles Koech for Applicant

N/A for M/s Kipkoech for Respondents

Court assistant-Ruth