



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**THE LAND AND ENVIRONMENT DIVISION**  
**LAND CASE NO 240 OF 2013**

JACOB MWIRIGI NGARI .....1ST PLAINTIFF  
ALICE NGARI .....2ND PLAINTIFF  
DAVID KINOTI NGARI.....3RD PLAINTIFF  
PHILIPH MUTHOMI NGARI.....4TH PLAINTIFF  
KOOME ISAAC NGARI..... 5TH PLAINTIFF  
LYDIA KATHURE ISAAC.....6TH PLAINTIFF  
JUDAH KIMATHI NGARI.....7TH PLAINTIFF

**VERSUS**

M'RINGERA M'ABURIA.....DEFENDANT

**R U L I N G**

This application is dated 29th August, 2013. It is predicated Upon Order 51 Rule 1 of the Civil Procedure Rules, 2010, Section 68 and 69 of the Land Registration Act, 2012, Sections 1A, 1B, 3A and 63 (e) of the Civil Procedure Act and any other enabling provisions of the law. The application seeks the following orders:-

1. ***THAT this application be certified as very urgent and the same be heard as a matter of priority.***
2. ***THAT this Honourable Court be pleased to issue order on inhibition against the defendant/respondent inhibiting him from any dealings with land parcels LR. Nos. ABOTHUGUCHI/KITHIRUNE/549 and 1338 pending the inter-parties hearing and determination of this application.***
3. ***THAT this Honourable Court be pleased to issue order on inhibition against the defendant/respondent inhibiting him from any dealings with land parcels LR. Nos. ABOTHUGUCHI/KITHIRUNE/549 and 1338 pending the hearing and determination of the suit.***
4. ***THAT costs for and incidental to this application be provided for.***

The application has the following grounds:-

- i. ***THAT the applicants are all adult and grown up children of the respondent and the respondent has refused to allocate them portions of land parcels ABOTHUGUCHI/KITHIRUNE/549 and 1338 to establish their homes and practices subsistence farming.***
- ii. ***THAT the applicants know no other lands and home and have no means to buy alternative lands.***
- iii. ***THAT the respondent has threatened to dispose the family lands and render the applicants destitute, vagabond and homeless.***
- iv. ***THAT the applicant will suffer great prejudice if this application declined but the respondent will not suffer any prejudice since the applicants are not seeking to displace him from where he has built or dispossess him any title to the family lands.***

The application is supported by the affidavit of Jacob Mwirigi Ngari, the 1st Applicant.

On 26th September, 2013, the Court directed that the application be heard by way of Written Submissions. The applicant was granted 7 days to do so. The respondent was to respond within 7 days after being served with the applicants Submissions. Over 2 years later the applicant has not filed and exchanged his Written Submissions. As a result the respondent could not file his Submissions.

Mr. Mwirigi, for the respondent has asked the Court to dismiss the application as the applicants had disobeyed a Court Order and were not keen on prosecuting their application. I agree with him. This application merits dismissal. **It is therefore dismissed with costs to be in the cause.**

**It is so ordered.**

***Delivered in open Court at Meru This 28th October, 2015 in the presence of:***

CC: Lilian/Daniel

Muthomi h/b Gichunge for Plaintiffs

Mwirigi for the Defendant

**P. M. NJOROGE**

**JUDGE**