



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

HCC NO 45 OF 2015 (O.S)

IN THE MATTER OF THE LIMITATION OF ACTIONS ACT

AND

IN THE MATTER OF LAND PARCEL REFERENCE NO. ABOGETA/U-KIUNGONE/2283

CATHERINE KIENDE M'ITONGAPLAINTIFF/APPLICANT

VERSUS

LAWRENCE MBITI RUTERE.....DEFENDANTS/RESPONDENT

R U L I N G

This application is brought to Court Under Order 40 Rules 1,2 & 3 of the Civil Procedure Rules and other enabling provisions of the Law. It is dated 23/06/2015 and seeks orders:-

1. *That this application be certified as extremely urgent and service of the same be dispensed with at the first instance.*
2. *That the Honourable Court be pleased to issue an Order of Inhibition on land parcel no ABOGETA/U-KIUNGONE/ 2283 until further orders of the Court.*
3. *That the Honourable Court be pleased to issue an Order of Temporary Injunction against the defendant restraining him by himself, his servants, agents, employees or anyone acting on his behalf from/ trespassing /interfering with Land Parcel No.*

ABOGETA/U-KIUNGONE/2283 pending the hearing and determination of this application.

4. *That the Honourable Court be pleased to issue an order of Temporary Injunction against the defendant restraining him by himself, his servants, agents employees or anyone acting on his behalf from/trespassing/interfering with land parcels No. Abogeta/U-kiungone 2283 pending the hearing and determination of this suit.*
5. *Cost and interest of the application be provided.*

The application is buttressed by the affidavit of Catherine Kiende M'Itonga and has the following grounds.

1. *That the Plaintiff/applicant was allocated a portion of land by her deceased father that I took possession and occupied since 1995 to date.*
2. *That I have extensively developed the said portion wherein I have cultivated bananas, arrowroots, sugarcanes, maize, cabbages, nappier grass planted trees, constructed a semi-permanent house and have reared cows and chicken.*

On 12/11/2015, the Advocates representing the parties told the Court that they had agreed to the confirmation of prayer 2 for inhibition. They told the Court that since the said prayer sufficed to preserve the suit party, the parties will proceed to the hearing of the main suit.

In the Circumstances, It is ordered as follows:-

1. *Prayer 2 of the Application is granted*
2. *Prayers 3 and 4 are not granted.*
3. *Costs shall be in the cause.*
4. *The parties should fully comply with orders 3, 7, and 11 as appropriate within 60 days with the plaintiff doing so within 30 days of today and the defendant doing so within the remaining 30 days.*
5. *Parties to obtain a date for directions from the registry.*

Delivered in Open Court at Meru this 12th day of November, 2015 in the presence of:

CC: Lilian/Daniel

Mutunga h/b Otieno for Plaintiff/Applicant

Muthomi present for Defendant/Respondent

P. M. NJOROGE

JUDGE