



REPUBLIC OF KENYA



Gichobi & 6 others v Ngunjiri & another (Environment & Land Case 23 of 2016) [2022] KEELC 3044 (KLR) (27 May 2022) (Judgment)

Neutral citation: [2022] KEELC 3044 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA
ENVIRONMENT & LAND CASE 23 OF 2016**

EC CHERONO, J

MAY 27, 2022

BETWEEN

**EUNICE MUTITU GICHOBI 1ST PLAINTIFF
JESINTA WANJIKU GICHOBI 2ND PLAINTIFF
JULIUS KARIUKI GICHOBI 3RD PLAINTIFF
LUCY MUTHONI GICHOBI 4TH PLAINTIFF
CATHERINE WAMBUI GICHOBI 5TH PLAINTIFF
JOHN NGURE GICHOBI 6TH PLAINTIFF
STEPHEN GITARI GICHOBI 7TH PLAINTIFF**

AND

**JOSEPH GICHOBI NGURE 1ST DEFENDANT
STEPHEN NGUMU WERU 2ND DEFENDANT**

JUDGMENT

1. By a Notice of motion brought under sections 1 A, 1B and 34 of the [CPA](#) as read with order 51 rule 1 [CPR](#) dated 16/11/2021 and filed in court the same date, the 2nd defendant seeks the following orders;
 1. That the honourable court be pleased to remove the inhibition order and cautions placed on title number Baragwe/guama/879.
 2. That the costs be provided for.
2. The application is based on five grounds apparent on the face of the application supported by applicant's own affidavit sworn the same date.



3. The application is opposed by Eunice Mutitu Gichobi, the 1st plaintiff herein on her own behalf and that of the other plaintiffs through a replying affidavit sworn on February 15, 2022.
4. From his supporting affidavit, the 2nd defendant/applicant avers that he is the registered owner of land parcel Number Baragwe/guama/879 and that the plaintiffs filed this case and also lodged a caution over his land but failed to prosecute the same.
5. While opposing the application, the 1st plaintiff/respondent stated that the application as filed is premature, bad in law, vexatious and an abuse of the court process.
6. She stated that the subject-matter of this suit is land parcel No Baragwe/guama/879 which is an ancestral land registered in the name of the 1st defendant/applicant to hold in trust for himself and the rest of the family.
7. She stated that this suit is still pending and has not been determined on merits.

Analysis and Decision

8. I have considered the application dated November 16, 2022, Grounds on the face of the said application and the replying affidavit sworn by Eunice Mutitu Gichobi. I have also considered the applicable law.
9. The power of the court to inhibit registration of dealings in a registered land is provided under sections 68 of the Land Registration Act No 3 of 2012. An order for inhibition is made for a particular time or until the occurrence of a particular event, or until further orders of the court.
10. Section 70 of the same Act provides as follows-
 - The registration of an inhibition shall not be cancelled except in the following cases -
 - (a) On the expiration of the time stated in the inhibition;
 - (b) On proof to the satisfaction of the registrar of the occurrence of an event stated in the inhibition;
 - (c) On the land, lease or charge being sold by a charge, unless such sale is itself inhibited; or
 - (d) By a consequent order of the court”.
11. The applicant has not attached a copy of the certificate of official search or inhibition order which he seeks to be removed. Without evidence of the existence of the alleged inhibition order and reasons for removal, this court cannot act on conjecture or hearsay.
12. In view of the reasons and matters aforesaid, I find the Notice of motion dated November 16, 2021 lacking merit and the same is hereby dismissed. Costs shall be in the cause. It is so ordered

RULING READ, DELIVERED AND SIGNED IN THE OPEN COURT AT KERUGOYA THIS 27TH MAY, 2022.

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HON. E.C. CHERONO

ELC JUDGE

In the presence of-;



- (1) Mr Macharia Wambui H/B for Igati Mwai
- (2) 1st Defendant - present
- (3) 2nd Defendant - present
- (4) Kabuta C/A.

