



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAKAMEGA**

**CIVIL CASE NO. 95 OF 2009**

**VIOLET MERAB SONGA ..... 1<sup>ST</sup> PLAINTIFF**

**EUGINE HARRY SONGA ..... 2<sup>ND</sup> PLAINTIFF**

**EUNICE JEANETTE SONGA ..... 3<sup>RD</sup> PLAINTIFF**

**V E R S U S**

**TATULI MBASU ..... 1<sup>ST</sup> DEFENDANT**

**MATHEW SAMAKI ..... 2<sup>ND</sup> DEFENDANT**

**R U L I N G**

The plaintiff filed the originating summons against the defendant on 8.6.2009 seeking orders that they have acquired a portion of land comprised in plot number **KAKAMEGA TOWN/BLOCK III/270** by way of adverse possession. The interested party filed civil suit number 70 of 2009 against the defendants seeking revocation of the title to plot number **KAKAMEGA TOWN/BLOCK III/270** on the grounds that the plot was acquired fraudulently and through illegal means.

The interested party has filed the current application seeking to be enjoined in this suit. The interested party contends that the same suit property is in dispute in civil case number 70 of 2009 and the defendants in this case are the same in the other case.

Order I rule 22 allows the court to enjoin a third party to a suit. I have seen the plaint in civil case number 70 of 2009 and the issues in that suit involve the validity of title number **KAKAMEGA TOWN/BLOCK III/270**. In the current suit, the plaintiffs own plot number **KAKAMEGA TOWN/BLOCK III/94**. Their claim is that part of their development appears to have been erected on plot number 270 and is apprehensive that the defendants may demolish their property.

The defendants are not opposed to the application. The plaintiffs did not file any response to the application. Since the two cases involve the same plot number **KAKAMEGA TOWN/BLOCK III/270**, I do find that it will be prudent if the applicant is enjoined as an interested party. The application dated 2.9.2009 is hereby granted as prayed. Parties to list the matter for further directions. Costs shall be in the cause.

**Delivered, dated and signed at Kakamega this 25<sup>th</sup> day of July 2013**

**SAID J. CHITEMBWE**

**J U D G E**