



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

ELC NO. 219 OF 2012

JOANINAH KARIMI KUBAI.....PLAINTIFF

VERSUS

MANUARI M'KIAMBATI M'INIBU.....1ST DEFENDANT/RESPONDENT

KANINI MANUARI.....2ND DEFENDANT/RESPONDENT

JULIUS MUTHIORA MANUARI.....3RD DEFENDANT/RESPONDENT

JOYCE MANUARI.....4TH DEFENDANT/RESPONDENT

R U L I N G

The application herein seeks Orders:

1. **THAT** the application be certified urgent and it be heard ex- parte in the 1st instance.
2. **THAT** pending the inter- partes hearing of the application, an inhibition be issued, inhibiting registration of any dealings over P/No.8957, situate in Kangeta Adjudication Section.
3. **THAT** pending hearing and determination of this case or until further Court orders, an inhibition be issued, inhibiting registration of any dealings over land P/No. 8957, situate in Kangeta Adjudication Section.
4. **THAT** pending inter-partes hearing of the application, a temporary injunction be issued restraining the defendants/respondents, their representatives, assigns,

employees, servants, agents and/or anyone else acting or claiming for, through or on their behalf, from selling, charging, leasing, giving, alienating to third parties and/or otherwise parting with possession of land P/NO.8957 situate in Kangeta Adjudication Section.

5. **THAT** pending hearing and determination of this case or until further court order, a temporary injunction be issued restraining the defendants/respondents, their representatives, assigns, employees, servants, agents and/or anyone else acting or claiming for, through or on their behalf, from selling, charging, leasing, gifting, alienating to third parties and/or otherwise parting with possession of land P/NO8957, situate in Kangeta Adjudication Section.
6. **THAT** costs of the application be provided for.

Interim orders for Inhibition and temporary injunction pending inter-partes hearing of this application were issued on 28th November, 2012.

The application was heard inter- partes on 3rd June, 2013. The plaintiff's Case was that he had bought the suit land from the defendant vide a valid Agreement for sale. However, the 1st defendant had colluded with his wife, son and daughter to caution the suit land thereby curtailing the plaintiff's/applicant's efforts to have the suit land transferred to her. The plaintiff argued that to preserve the suit land, she deserved the grant of her prayers for inhibition and temporary injunction.

The 1st defendant told the Court that he was desirous of transferring the suit land to the plaintiff and did not want this suit to proceed any further.

The 2nd, 3rd and 4th defendants said that they vehemently opposed the application arguing that the suit land was family land and, therefore, the 1st defendant lacked capacity to sell it.

Having looked at the affidavits and other claims made by the parties, I am apprehensive that at this stage, I am being called upon to pronounce on matters that will need to be canvassed at the hearing of the main suit. However, there is no dispute that the 1st defendant had sold the suit land to the plaintiff. Other matters such as the claim that the suit land is family land can only be satisfactorily ventilated during the hearing of the main suit.

I have looked at the authorities provided by the parties including the citing of statutory provisions. I am satisfied that the plaintiff has met the requirements for apposite interlocutory orders as pronounced by, inter alia, the case of **Giella V. Cassman Brown & Co, Ltd [1973] E. A.358**. I am also satisfied that the plaintiff deserves the grant of the order of inhibition as prayed for.

In the circumstances;

1. Prayers 3 and 5 in the application dated 26th November, 2012 are hereby granted.
2. I direct that costs be in the cause.

It is so ordered.

Delivered and Signed in Open Court at Meru this 12th day of July, 2013 in the presence of:

Carl Peters Mbaabu present for plaintiff/Applicant

1st Defendant/Respondent- Absent

Miss Nyaga present for 2nd, 3rd, 4th Respondents.

P. M. NJOROGE

JUDGE