



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MERU

HIGH COURT CIVIL CASE NO. 68 OF 1992

THOMAS GITONGA M'RUKUNGAPLAINTIFF

VERSUS

STEPHEN NGIRI 1ST DEFENDANT
LAND ADJUDICATION OFFICER 2ND DEFENDANT
ATTORNEY GENERAL 3RD DEFENDANT

RULING

Thomas Gitonga M'Rukunga the plaintiff herein sought by this action a declaration that the defendants Stephen Ngiri and the land adjudication officer had by collusion taken his 10 points from parcel number *Maua/Amwathi/3136* and further sought a declaration that the same was given to the 1st defendant and included in the 1st defendant's parcel number 5368. This court by its judgment delivered on 19th November 2010 found that the plaintiff had not proved his case on a balance of probability. The plaintiff's case was dismissed. The plaintiff was aggrieved by that judgment and has filed a Notice of Appeal dated 22nd November 2010. Now the plaintiff seeks orders of inhibition to issue over parcel *Maua/Amwathi/5368* until the final determination of the intended appeal. Learned counsel Mr. Kaumbi for the plaintiff submitted that inhibition would ensure the land in question is preserved so that the appeal would not be defeated by any other transfer of that land. The 1st defendant in the replying affidavit stated that he took possession of that land in 1987 and constructed a semi permanent kiosk and garage thereon. His learned counsel Mr. B.G. Kariuki stated in submissions that the 1st defendant has no intention to alienate that land. The application for inhibition was not opposed by the attorney general. The application for inhibition as correctly submitted by the plaintiff will ensure that the parcel of land is not transferred to other parties while the appeal is pending. It is therefore merited. I grant the following orders:-

- 1. An order of inhibition is hereby issued over parcel number Maua/Amwathi/5368 until the determination of the plaintiff's appeal before Court of Appeal or until further orders of this court.***
- 2. The costs of the Notice of Motion dated 2nd December 2010 shall abide with the outcome of the appeal.***

Dated, signed and delivered at Meru this 13th day of April 2011.

MARY KASANGO
JUDGE