



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCC. CAUSE MISC. 65 OF 2000

IN THE MATTER OF THE ESTATE OF THE LATE IRINGO MWITU (DECEASED)

JANET KARIMIAPPLICANT

VERSUS

CEASER RIUNGU1ST RESPONDENT

MISHECK M. RIUNGU.....2ND RESPONDENT

RULING

This court by its judgment dated 22nd October 2010 ordered that the parcel number *Abogeta/Kithangari/746* (suit property) be registered in the name of Janet Karimi M'Iringo (**Janet**). The court by that judgment found that Janet was the rightful heir of the deceased and further made a finding that the purchase of the suit property by Misheck Riungu (**Riungu**) was tainted with legality. Riungu has filed the Chamber Summons dated 28th October 2010. By that Chamber Summons, Riungu seeks the court's leave to file an appeal against the aforesaid judgment. That prayer was not opposed by Janet and in my view it is merited. Riungu in the same Chamber Summons sought stay of execution of the judgment herein on an order of *status quo* to be maintained in respect of the registration of the suit property. In support of that prayer, Riungu deponed in his affidavit that Janet was arranging on being registered as the owner of the suit property to sell it. That Janet on learning that he was intent on filing an appeal had intensified her search for a buyer. Janet denied the allegations of Riungu and stated that she had no intention of selling the suit property which she said she had occupied for over 40 years and now occupies it with five of her children. I am satisfied that Riungu has shown that if the stay of execution of the judgment is not granted and Janet sells the suit property to third parties, he may, if his appeal is successful, suffer substantial loss. It is for that reason that I find that after the property is registered in the name of Janet, it should have an inhibition registered against it. I grant the following orders:-

- 1. The inhibition or restriction registered on parcel number *Abogeta/Kithangari/746* be and is**

hereby lifted.

2. The parcel No. Abogeta/Kathangari/746 be registered in the name of Janet Karimi M'Iringo in accordance with the judgment of this court dated 22nd October 2010 and once it is so registered, a restriction be hereby registered restricting any further dealings with that parcel of land until the final determination of the appeal being filed in the Court of Appeal by Misheck Muriira Riungu is finally determined or until further orders of this court.

3. Leave is hereby granted to Misheck Muririra Riungu to file an appeal against the judgment of 22nd October 2010 to the Court of Appeal. The costs of the Chamber Summons dated 22nd October 2010 shall be paid by Misheck Muririra Riungu to Janet Karimi M'Iringo.

Dated, signed and delivered at Meru this 18th day of May 2011.

MARY KASANGO
JUDGE