



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 525 of 2009**

**MARY WANGUI KAMUTHU .....PLAINTIFF**

**VERSUS**

**ANTHONY MBUGUA KONGO.....DEFENDANT**

**RULING**

At the centre of these proceedings is a parcel of land L.R. No. Nairobi/Block 144/1233. The plaintiff brought this suit against the defendant for an order that she be declared a joint owner in equal shares and the Land Registrar to reflect this upon issuance of the Title Deed.

Alongside the plaint, the plaintiff filed an application by way of Chamber Summons for an order of injunction to restrain the defendant, his servant and/or agent from selling or disposing of the said property. On 15<sup>th</sup> October, 2009 this court gave an interim order to that effect.

The parties subsequently argued the application *inter partes* and counsel have filed written submissions. From the outset I wish to observe that, most of the matters canvassed in the affidavits of the parties and the submissions that followed, belong to the province of a main trial. Those are averments that have not been subjected to cross-examination and as they stand now, it is the word of the plaintiff against the defendant.

At this stage however, what the plaintiff is required to show is a *prima facie* case with a probability of success and that, if the order is not granted loss may occur that may not be compensated by an award of damages.

I have considered what both parties have presented. I have come to the conclusion that, the best way to secure the interests of both parties is to preserve the subject matter herein. In that regard therefore the plaintiff's application succeeds. The restraining orders given against the defendant on 15<sup>th</sup> October, 2009 are hereby confirmed and shall remain in place until this suit is heard and determined. Costs in the cause.

Orders accordingly.

***Dated, signed and delivered at Nairobi this 27<sup>th</sup> day of April, 2010***

**A. MBOGHOLI MSAGHA**