

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
Civil Case 123 of 2009

ROSE NCORO M'MWONGERA PLAINTIFF

VERSUS

GEOFFREY MURU M'MWONGERA DEFENDANT

RULING

The plaintiff and the defendant are brother and sister. Their father was the owner of parcel number *Kibirichia/1556*. It is alleged by the plaintiff that before the death of their father he had allocated her 2 acres of that land to cultivate. She cultivated that land until the year 2006 when the defendant expelled her from the land. On making enquiry, she found that the defendant following a succession cause had registered the land in his name to her exclusion. By this action, she is seeking a declaration that the defendant holds 2 acres of that land in trust for her. She has filed an interlocutory application dated 10th September 2009 seeking an order of inhibition to issue to stop dealings with the suit property until the final determination of this suit. The application is brought under Section 28 of the Registered Land Act. The defendant in his replying affidavit denied that he filed the succession secretly and stated that the plaintiff knew about it. He then stated that because he was the only son of the deceased and because the plaintiff is a married daughter, he was the only one entitled to inherit that land. At this interlocutory stage, all I wish to say is that the law does not discriminate the rights of a girl to inherit as compared to the rights of the boy. I therefore find the application has merit and I grant the following orders:-

- 1. *I order that inhibition do issue and be registered on parcel number Kibirichia/1556 until final determination of this suit.***
- 2. *Costs of the Notice of Motion dated 10th September 2009 shall be in the cause.***

Dated and delivered at Meru this 21st day of May 2010.

MARY KASANGO

JUDGE