



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MERU

HC. SUCC NO. 425 OF 2009

LESIT J.

MUTEGI KANGA.....DECEASED

ELOSY JULIUS MBAKA.....PETITIONER

RULING

The application is the Amended Chamber Summons dated 28th May 2010 has been brought under section 27 of the Law of Succession Act and rule 73 of the Probate and Administration Rules and section 128 of the Registered Land Act. It seeks an order that this court reinstates the order of inhibition prohibiting any dealing in land parcel No. KARINGANI/ NDAGANI/7707 given by this court on 3rd September 2009. The application is supported by the grounds on the face of the application and in the affidavit sworn by Elosy Julius Mbaka dated 26th May 2010. The grounds on the face of the application are as follows:-
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1. That the inhibition order granted by this Honourable Court in respect of Land Parcel No. KARINGANI/NDAGANI/7707 has been irregularly discharged at the instigation of the 2nd Respondent and one MWITI KARIYIU NJUE.
2. That the said MWITI KARAYIU NJUE instituted MERU H.C.C.C. No 9 of 2010 against the 2nd respondent in a calculated move to circumvent the inhibition order issued by this honourable court in this cause in respect of Land Parcel No. KARINGANI NDAGANI/7707.
3. That the 2nd Respondent and MWITI KARAYIU NJUE have succeeded in having the said inhibition order lifted by recording a consent between themselves purportedly directing the District Land Registrar Meru South to lift the inhibition
4. That the applicant was not enjoined in the said suit despite having been the person responsible for having dealings in the said parcel of land inhibited.
5. That the 2nd Respondent is moving with unprecedented speed to have the suit parcel of land transferred to MWITI KARIYIU NJUE in total disregard of the face that the instant suit is still pending.
6. That the intended alienation of the suit parcel of land by the 2nd Respondent will effectively destroy the very substratum of this suit.
7. That the 2nd Respondent and the said MWITI KARIYIU NJUE are guilty of serious malfeasance and are undeserving of the countenance of this Honourable Court.
8. That it is imperative that the orders sought herein be granted in order to advance the course of justice and prevent the abuse of the process of court.

Dated Signed and delivered at Meru this 12th day of November 2010

LESIT, J
JUDGE

In the presence of the parties
Kiriimi – Court Clerk.
Plaintiff/Applicants in person
Mr. Rimita for Respondent/Defendant

LESIT, J
JUDGE