



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**Civil Suit 166 of 2009**

**SARAH JEPKORIR KOSEN.....PLAINTIFF**

**VERSUS**

**MALETA OLE KOSEN.....1<sup>ST</sup> DEFENDANT**

**ALICE KOSEN .....2<sup>ND</sup> DEFENDANT**

**THE CHAIRMAN, LANDDISPUTE TRIBUNAL,**

**CENTRAL DIVISION, NAROK.....3<sup>RD</sup> DEFENDANT**

**RULING**

The plaintiff claims to be the widow of the late Livingston M. Kosen (the deceased). Upon obtaining a grant of letters of administration to the deceased estate in Eldoret High Court Probate and Administration Cause No. 146 of 1993 she got the deceased's piece of land known as Title No. Cismara/Oleleshwa/861 registered in her name. The 1<sup>st</sup> and 2<sup>nd</sup> defendants claiming that the plaintiff is not a widow of the deceased filed a dispute before Narok Central Land Disputes Tribunal and got the land transferred to themselves. She has challenged the Tribunal's powers to award the land to the 1<sup>st</sup> and 2<sup>nd</sup> plaintiffs and seeks among other things a declaration that the Tribunal had no jurisdiction to do so. Pending the hearing and final determination of the suit she has applied for an injunction to restrain the 1<sup>st</sup> and 2<sup>nd</sup> defendants from in any way disposing the suit land. In his replying affidavit the 1<sup>st</sup> defendant avers that the plaintiff had fraudulently got the land registered in her name.

The main issue for determination in this matter appears to be whether or not the plaintiff is a widow of the deceased entitled to inherit his estate. As the land is now registered in the names of the 1<sup>st</sup> and 2<sup>nd</sup> defendants, if the court after hearing the case finds that the plaintiff is indeed the widow of the deceased, awarding her the declaration sought will be an exercise in futility if the land will be disposed of. In the circumstances I find that she is entitled to the injunction to restrain the 1<sup>st</sup> and 2<sup>nd</sup> defendants from subdividing or in any way disposing the suit piece of land until this case is heard and determined and I so order. The costs of this application shall be costs in cause.

**DATED and delivered this 24<sup>th</sup> day of November, 2009.**

**D. K. MARAGA**

**JUDGE.**