

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

Civil Case 12 of 2006

KIPKEMBOI TENAI.....1ST PLAINTIFF

RAPHAEL KIMURSI TANAI.....2ND PLAINTIFF

VERSUS

PAULINE CHEPKEMBOI:.....DEFENDANT

RULING

The applicant seeks for orders of inhibition to issue preventing registration of any dealings over land No. NANDI/KAMOBO/913, 3674 and 3675 pending the hearing of the suit.

Mr. Momanyi prosecuted the application and there is also a supporting affidavit. The court was told the history of the suits land. The parties are all relatives and the matters have been to the Land Disputes Tribunal and awards made.

Mr. Nandwa opposed the application on the grounds that awards of the Tribunal were adopted by magistrates' courts and the only way the applicant should have come to court is by way of Judicial Review.

I have considered the application, affidavit and the rival submissions. I quite agree with Mr. Nandwa that on the face of it the procedure in bringing this suit is doubtful. However the Defendant has not made any application to have the suit dismissed and I think we can cross that bridge if we ever come to it. The issue now is if I should issue orders sought. I don't see what harm would be caused if I issue the orders. The applicants only seek to ensure that any dealing with the land is inhibited. He does not seek to stop the respondents working the lands.

I will therefore allow the application and grant the orders sought. There be no registration of the parcels of the lands until suit is heard or there are further orders. Costs in the cause.

Dated and Delivered at Eldoret on 13th March, 2008.

KABURU BAUNI

JUDGE

IN THE PRESENCE OF:-

C/C - David

Mr. Keter for defendant.