



REPUBLIC OF KENYA



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Kipkulei & another v Chief Land Registrar & 8 others; Agricultural Development Corporation & another (Interested Parties) (Environment & Land Case E12 of 2022) [2022] KEELC 13638 (KLR) (19 October 2022) (Ruling)

Neutral citation: [2022] KEELC 13638 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE E12 OF 2022
FM NJOROGE, J
OCTOBER 19, 2022

BETWEEN

BENJAMIN KIPKECH KIPKULEI 1ST PLAINTIFF

DAVID KAHURIA MBUGUA 2ND PLAINTIFF

AND

CHIEF LAND REGISTRAR 1ST DEFENDANT

WILSON KIGUTU MACHARIA 2ND DEFENDANT

KIBII BOIYO 3RD DEFENDANT

LUKE KIPKEMOI CHEMWENI 4TH DEFENDANT

DAVID KIMANI GICHARU 5TH DEFENDANT

FRANCIS K. CHANGWONY 6TH DEFENDANT

DAVID BIWOTT 7TH DEFENDANT

DAVID BOIYO 8TH DEFENDANT

DAVID MAINA 9TH DEFENDANT

AND

AGRICULTURAL DEVELOPMENT CORPORATION INTERESTED PARTY

JOSEPH KIANGOI OMBASA INTERESTED PARTY



RULING

1. This is a ruling with respect of the plaintiffs notice of motion application dated March 20, 2022. It has been brought under order 40 rule 1 and 2, order 50 rule 1 of the Civil Procedure Rules, section 1A, 1B and 3A of the Civil Procedure Act and article 40 of the Constitution and seeks the following orders;
 - a. Spent
 - b. Spent
 - c. Spent
 - d. An inhibition do issue forbidding the registration of any dealings in reference to properties LR No 20591/17, LR No 20591/19, LR No 20591/20, LR No 20591/21, LR No 20591/22, LR No 20591/67 and LR No 20591/80 pending the hearing and determination of the suit.
 - e. An injunction do issue against the 2nd to 11th defendants, their successors in title and agents from entering, taking possession and or interfering with the 2nd defendants occupation, use and management of LR No 20591/17, LR No 20591/19, LR No 20591/20, LR No 20591/21, LR No 20591/22, LR No 20591/67 and LR No 2059/80 pending the hearing and determination of the suit.
 - f. The Naivasha sub county commander do assist in enforcement of the orders herein.
 - g. The costs of this application be in cause.
2. The application is supported by the grounds on its face and in the affidavit sworn by Benjamin Kipkech Kipkulei on March 19, 2022. In the affidavit he deposes that he is the registered owner of LR No 20591/22, LR No 20591/67 and LR No 20591/80 and the beneficial owner of LR No 20591/19, LR No 20591/20, LR No 20591/21 after acquiring them in the year 2000 from the 2nd, 3rd and 4th interested parties;
3. The plaintiff's claim within the current suit in respect of LR No 20591/20 and LR No 20591/21 was dropped by way or election and amendment pursuant to directions of court issued on June 9, 2022. I will refer to the remaining parcels herein after collectively as "the suit lands."
4. The plaintiffs aver that LR No 20591/17, LR No 20591/19 and LR No 20591/20 are subdivisions of LR No 20591/9; that the certificate of title for LR No 20591 was lost and replaced; that the 1st interested party (ADC) had placed a caveat on LR 20591/22 on February 3, 2004 which was in place as at October 3, 2014; for that reason, the plaintiff avers that no valid transaction could be validly done during that period;
5. The 1st plaintiff further claims that he legitimately acquired LR 20591/22 from Sadena Enterprises Limited and the property lawfully transferred to him in 2014.
6. He also states that his certificates of title for LR No 20591/67 and LR No 20591/80 came directly from the Agricultural Development Corporation the 1st interested party herein.
7. It is the plaintiff's position that the 1st interested party sold LR No 20591/21 and LR No 20591/22 directly to the 3rd and 4th interested parties from whom he later acquired them.
8. He further states that he misplaced his title documents except for the certificates of title and land control board consents; that he took possession of the properties, fenced them and has been cultivating



the properties for a period of over 20 years; that the 2nd to 11th defendants have unlawfully encroached onto his properties thereby exposing him to material losses and unless the court intervenes, the defendants will continue trespassing on the land without his consent.

9. In response to the application, the 4th defendant filed grounds of opposition dated April 25, 2022 as follows:
 - a. No sufficient grounds have been set out to the required standards to enable the court make a just determination on the issues in dispute at this stage of the proceedings.
 - b. The orders sought as against the 4th defendant who is the duly registered owner and in actual possession and use of parcel No LR No 20591/22 are untenable as the same would be tantamount to an eviction before the matter is heard and determined on merit.
 - c. The plaintiffs suit and application as against the 6th defendant is frivolous, baseless, scandalous, meritless and solely aimed at abusing the process of the court.
 - d. The plaintiffs have not met the threshold for grant of orders of injunction as required in law.
 - e. The plaintiffs have not established any cause of action against 4th defendant and the suit/application as against him should be dismissed and or struck out in its entirety with costs.
10. The 4th defendant also filed a replying affidavit in addition to his grounds of opposition which was sworn on April 28, 2022. He deposed that he is the duly registered owner of LR No. 20591/22 and was issued with a certificate of title on January 18, 1999; that he applied for an official search on April 28, 2022 at the lands registry which confirmed that he is the registered owner; that after purchase he took immediate possession of the property and developed it; that since he acquired the property he has enjoyed quiet possession until he was served with summons *vide* a daily newspaper; that his occupation and use of the land is supported by the 1st defendant's documents as he has attached photos of his animals grazing on the suit land; that he has no control of the mother title and the entries made thereon relating to properties; that the plaintiffs have not established any claim against him and have also not met the threshold for grant of injunction as required in law.
11. The 4th defendant filed a further affidavit sworn on May 9, 2022 where he deposed that the 1st plaintiff alleges that LR No 20591/22 was legally allocated to Sadena Enterprises Limited and a certificate of title issued in its favor on January 18, 1999 and save for the provincial title, the 1st plaintiff did not demonstrate the purported allocation to Sadena Enterprises Limited; that searches at the Companies Registry indicate that Sadena Enterprises Limited was registered on June 15, 1999 which is strange that it would have been allocated LR No 20591/22 on January 18, 1999; that it therefore did not acquire a valid interest over the property to pass to the 1st plaintiff; that the photographs attached to the application show that there are structures on the land which is not true; that the 1st interested party allocated LR No 20591/22 to him *vide* the letter of allocation dated April 10, 1997; thereafter the 1st interested party demanded for payment of kshs 339,163/= which was paid and he was issued with an acknowledgement receipt for payments serial number 16764 and dated November 25, 1998; that the 1st interested party applied for the land control board consent which was granted *vide* the letter dated December 3, 1998; that a transfer instrument was registered on January 18, 1999 transferring the interest over LR No 20591/22 to him; that a certificate of title dated January 18, 1999 and registered as IR No 79260/1 was also issued to him; and that the official searches on the suit property the last one being April 28, 2022 indicate that the property in his name.
12. The 2nd defendant also filed grounds of opposition dated April 25, 2022 as follows:
 - a. That the present application is misconceived and an abuse of the court process.



- b. That the present suit is an abuse of the court process and seeks to have this court make a determination on matters that are currently pending before this honorable court to wit Nakuru ELC No 34, 35 and 43 of 2021.
 - c. That the orders sought in the present application are in direct conflict with the orders subsisting in Nakuru ELC No 34, 35 and 43 of 2021.
 - d. That the 2nd defendant is the registered proprietor of all that suit property known as LR No 2059/19 and the orders sought herein if granted shall deprive the 2nd defendant of his constitutional rights to property.
 - e. That the 2nd defendant has since his registration as the proprietor to suit property known as LR No 20591/19 had full, unfettered and undisturbed possession of the same.
13. In response to the application, the 2nd defendant also filed a replying affidavit sworn on May 9, 2022 where he deposed that the orders sought in the present application are in direct conflict with the orders subsisting in Nakuru ELC No 34, 35 and 43 of 2021 and is therefore in the interest of justice and indeed good order that the present suit be consolidated and determined along other pending suits; that he has no interest in LR No 20591/17 and LR No 20591/18 as alleged by the plaintiff; that he is aware that the erroneous registration in his favor on LR No 20591/18 entered as entry No 6 on the mother title was rectified at entry No 39 to read transfer Juliet Wangoi Gatheo who is not a party in these proceedings; that further the erroneous registration in his favor in respect of LR No 20591/17 at entry No 26 was rectified with entry No 39 to read David Kahuria Mbugua the 2nd plaintiff/applicant herein; that the 2nd plaintiff has no claim against him given the said rectifications; that he is the duly registered owner of LR No 20591/19 having been registered as an owner under entry No 2 on the mother title and a certificate of title over the subject matter issued to him; that he has enjoyed continuous uninterrupted possession of the property; that the grant of the prayers sought in the application will be tantamount to an eviction; that the 1st plaintiff has not demonstrated a prima facie case to warrant grant of the orders sought and the balance of convenience tilts in his favor; that the application should be dismissed with costs.
14. In response to the application, the 6th defendant filed his grounds of opposition dated April 25, 2022 which were as follows:
- a. The 6th defendant is the registered proprietor of the subject land known as parcel No LR No 20591/80 and is currently in possession of the subject property.
 - b. The 6th defendant acquired the subject property lawfully and procedurally and is the registered proprietor of the subject land known as parcel No LR No 20591/80.
 - c. The plaintiff is guilty of material non-disclosure hence underserving of the orders sought. The 6th defendant shall place material information before the honorable court at an opportune time to aid in the determination of this suit.
 - d. The issues raised in the application are complex and substantive in nature hence it warrants substantive hearing on merit including site visit before issuance of any adverse orders.
 - e. The plaintiff's application does not meet the test for the grant of the injunctive/temporary/interim orders sought.
15. The 6th defendant also filed a replying affidavit sworn on May 9, 2022 where he deposed that he is the registered owner of land parcel known as LR No 20591/80 which he acquired from the Agricultural Development Corporation through purchase and allocation; that the plaintiffs are not in occupation



of LR No 20591/80 as alleged; that on June 20, 2002 he had applied to the Agricultural Development Corporation for allocation of 150 acres comprised in Ndabibi Complex for agricultural purposes; that the ADC approved his application and allocated to him LR No 20591/80 for purposes of purchase; that by a letter dated April 12, 2004 he was required to pay Kshs 243,307/= as purchase price and was further directed to pay Kshs 258,000/= to cater for the purchase price, stamp duty, fees for conveyancing, survey and consent; that he paid the Kshs 258,000/= and was issued with a receipt; that the ADC applied for and obtained the Land Control Board consent through the application dated March 30, 2005 that was obtained through the letter dated April 7, 2005; that on March 30, 2005 the ADC executed an instrument of transfer conveying interest over LR No 20591/80 to him; that the instrument of transfer was registered on April 12, 2006 following which he was issued with certificate of title grant number IR 132724; that he is advised by his advocates on record that under section 25 of the Land Registration Act 2012, his rights are protected by law; that by the certificate of search dated May 9, 2022, he is still the registered owner; that the plaintiffs have not proved that they were allocated LR No 20591/80 by way of a letter of allocation or proof of payment for them to be granted the orders sought; that the 1st plaintiff alleges that he was issued with a certificate of title on June 22, 2011 which was 6 years after the 6th defendant had been issued with his certificate of title; that the 1st plaintiff does not have a *prima facie* case to warrant the granting of the orders sought and he prays that the plaintiffs application be dismissed.

16. The 7th defendant in opposition to the application filed grounds of opposition dated May 9, 2022 which are as follows:
- a. The plaintiffs have not established that they have a *prima facie* case with a probability of success in so far as the ownership of parcel numbers LR No 20591/19, LR No 20591/20, LR No 20591/21, 20591/22, LR No 20591/67 and LR No 20591 /80 are concerned given that-
 - i. The plaintiffs are neither registered as proprietors of LR No 20591/20 and 21 nor have produced in court written agreements for sale to demonstrate that they have any recognized interests thereon.
 - ii. No evidence has been adduced by the plaintiffs to show that the Agricultural Development Corporation either allocated them or their predecessors in title the parcels namely LR No 20591/19, LR No 20591/20, LR No 20591/21, 20591/22, LR No 20591/67 and LR No 20591/80 for purposes of purchase or at all.
 - iii. No evidence has been adduced by the plaintiffs to show that respective purchase prices for the parcels of land known as LR No 20591/19, LR No 20591/20, LR No 20591/21, 20591/22, LR No 20591/67 and LR No 20591/80 were made to the Agricultural Development Corporation or Lands Limited.
 - iv. No evidence has been adduced by the plaintiffs to show that all completion documents were obtained prior to the alleged registration of LR No 20591/19, LR No 20591/20, LR No 20591/21, 20591/22, LR No 20591/67 and LR No 20591/80 in their favour.
 - v. The alleged instrument of transfer dated September 17, 2007 which the 1st plaintiff relies upon to show it acquired valid interest over LR No 20591/67 from the Agricultural Development Corporation show that the same was cancelled.
 - b. Substantial loss has not been demonstrated. There is no evidence that substantial loss may result to the plaintiffs if the orders sought are not granted.
 - c. The application is an abuse of the court process and designed to sanitize purported certificates of title that were irregularly acquired.



- d. The application lacks merit, fails to demonstrate any wrongdoing on the part of the 1st defendant and is an abuse of the court process.
17. The 1st plaintiff filed a supplementary affidavit in response to the 4th defendant's replying affidavit and deposed that the 4th defendant had not shown the court any document beyond a forged certificate of title to show the root of his alleged title for LR No 20591/22 against the evidence he produced; that the certificate of title produced is incompatible with the mother title he produced since the entries do not correspond; the 1st plaintiff then gave particulars of forgery allegedly evident on the face of the certificate of titles and continued to depose that the 4th defendant forcefully took possession on March 26, 2022 and has built temporary structures for animals thereon and has also demolished the structures that were on it; that his farm manager reported the matter to Kongoni police station and was given OB No 02/30/04/22; that on May 6, 2022 the 4th defendant continued with his acts of trespass and unless restrained they will cause maximum harm upon him.
18. The 1st plaintiff filed a 2nd supplementary affidavit where he deposed that the respondents allegations of ownership are derived from certificates of title which are allegedly fraudulent; that with regard to the ownership of LR No 20591/19 he has in his possession a certificate of title in the name of the 2nd interested party Joseph Kiangoi which certificate corresponds to the mother title; that the letter of allotment amongst other documents produced in the replying affidavit of Wilson Kigutu refer to land reference number LR No 20591/19 which predates the mother title thereby signifying that it is fraudulent; that the affidavit of Francis K Changwony contains a certificate of title which he alleges that it is a forgery; that this is because subdivision must trace its root to the mother title; that the letter dated April 12, 2004 was a forgery as Grace N Namachanja was no longer an employee of the ADC as she was working for the Business Premises Tribunal; that the letter of allotment amongst other documents produced in the supplementary affidavit of Luke Kipkemoi Chemweno refer to land reference number LR/20591/22 which number predates the purported mother title; that the discrepancies in the defendants documents are apparent and that he stands to suffer if the orders sought are not granted.

Submissions

19. The application was canvassed by way of written submissions. The plaintiffs filed their submissions dated September 28, 2022 and submitted that the 1st plaintiff is the beneficial proprietor of LR No 20591/19 and the registered proprietor of LR No 20591/22, LR No 20591/67 and LR No 20591/80 located within Naivasha sub-county which he acquired in the year 2000 while the 2nd plaintiff is the registered owner of LR No 20591/17.
20. They submitted that they have provided proof of payment of government levies and title documents while the defendants have not provided any evidence of utilizing the suit properties or how they acquired the same from the 1st interested party. The plaintiffs then set out the alleged discrepancies on the documents produced by the defendants and identified one issue for determination which is whether the plaintiffs' application meets the threshold set for granting the orders of temporary injunction.
21. The plaintiffs relied on the case of *Giella v Cassman Brown & Company Limited* [1973] WA 358 which sets out the conditions for consideration in granting an injunction and went on to submit that where there are two competing certificates of title, the Court of Appeal in the case of *Naftali Rutbi Kinyua v Patrick Thuita Gachure & another* [2015] eKLR stated that it is incumbent on the parties to produce additional documents to support their respective cases.



22. On whether they have established a prima facie case, the plaintiffs relied on the case of *Nguruman Limited v Jan Bonde Nielson & 2 others* [2014] eKLR and submitted that they have produced copies of certificates of titles for the suit properties and even though the defendants are in occupation, the said occupation was obtained forcefully after the plaintiff had been in occupation for over twenty years.
23. The plaintiffs further relied on the cases of *Naftali Ruthi Kinyua v Patrick Thuita Gachure & another* [2015] eKLR and *Margaret Wanjiru Wachira v Kimani Njagua* [2017] eKLR.
24. On whether the plaintiffs will suffer irreparable harm, they relied on the case of *Paul Gitonga Wanjau v Gathuthi Tea Factory Co Ltd & 2 others*, Nyeri HCCC No 28 of 2015 and submitted that the defendants have trespassed on the suit properties and occasioned them some serious loss and that damages cannot be an adequate remedy in this case.
25. On the third limb of a balance of convenience, the plaintiffs relied on the case of *Paul Gitonga Wanjau v Gathuthi Tea Factory Company Limited & 2 others* (supra) and submitted that they stand to lose more than the defendants if the application is not allowed as he has been in occupation for a period of over twenty years. They concluded their submissions by seeking that their application is allowed as prayed.
26. The 5th defendant filed his submissions dated May 9, 2022. He relied on the case of *Johnbosco Kisome Mutisya & 8 others v Gabriel Mulemba* [2021] eKLR among other cases and submitted as follows: that the 1st plaintiff alleged that the defendants have dispossessed him of the suit properties and he therefore has no access to them but it is settled in law that an injunction cannot issue to prevent what has already happened. He also relied on the case of *Fredrick Wekesa Mwanja v Philip Muchai Mwasame* [2005] eKLR and reiterated that an order for temporary injunction should not issue as it would bar the defendants from the suit properties thereby effectively evicting them and would leave nothing for the full trial of the suit.
27. On whether there is a prima facie case, the 5th defendant relied on the case of *Mrao Limited v First American Bank of Kenya Limited* [2003] eKLR among other cases and submitted that the properties in relation to which the plaintiffs seek an order for temporary injunction include LR No 20591/20 and 21 and the documents the plaintiffs have presented to the court show that they are registered in the names of Noordin Mohammed Haji and Monaz Company Limited respectively and not the plaintiffs.
28. The 5th defendant also submitted that even though the plaintiffs allege that they bought the said properties, there was no written agreement for sale that was produced in evidence. He further submitted that even though the 1st plaintiff is laying claim over LR No 20591/19, LR No 20591/22, LR No 20591/67 and LR No 20591/80 no evidence has been produced to show that they were allocated to him.
29. On whether the plaintiffs will suffer irreparable loss, the 5th defendant relied on the case of *Simon Kimemia Muthondu v Moses Mugo Maringa* [2017] eKLR and submitted that the plaintiffs have not proved that they will suffer irreparable loss not capable of being compensated by way of damages. The 5th defendant submitted that the balance of convenience tilts in favor of the defendants given the plaintiffs admission that they are not in occupation of the suit properties.
30. The 6th and 7th defendants in their submissions dated May 9, 2022 submitted on whether the plaintiffs' application meets the threshold for grant of inhibitory/injunction orders sought. They relied on order 40 rule 1 of the *Civil Procedure Rules* and *Giella v Cassman Brown & Co Ltd* (supra) among other cases and submitted that save for the properties known as LR No 20591/67 and 20591/80 that are registered in their names, they have no proprietary interest over the rest of the suit properties.



31. They also submitted that they both demonstrated how they acquired the properties after following due process and relied on sections 25, 26(1) and 35(2) of the [Land Registration Act](#) and stated that they have produced certificates of title and a search issued by the Chief Land Registrar while the plaintiffs have not produced any search issued by the registrar to support their alleged interest in respect of ownership and occupation of the parcels of land known as LR No 20591/67 and 20591/80. It was their submissions that the plaintiffs have not therefore demonstrated a *prima facie* case to warrant the orders sought.
32. They submitted that since there is no *prima facie* case, the court should not move further into the second consideration as was determined by the court in the case of *Yellow Horse Inns Limited v Nduachi Company Limited & 2 others*(supra). They further submitted that the applicants have not demonstrated that they will suffer any irreparable injury and therefore the balance of convenience does not tilt in their favor.
33. The 4th defendant filed its submissions dated May 9, 2022 and submitted that the plaintiffs have not met the principles of grant of injunctive reliefs with regard to LR No 20591/22 that they are claiming. On whether the plaintiffs have established a *prima facie* case, the 4th defendant submitted that he was registered as the owner of the property since January 18, 1999 and was issued with a certificate of title.
34. The 4th defendant further submitted that the 1st plaintiff claims to have acquired the property from a company known as Sadena Enterprises Limited in the year 2014 which was almost two decades after the property was registered in his favour. He further submitted that the documents annexed by the 1st plaintiff are forgeries and have therefore not demonstrated a *prima facie* case to warrant grant of the injunctive orders sought. On whether the plaintiffs have demonstrated that they would suffer irreparable harm if the orders sought are not granted, it was submitted that the 1st plaintiff has at paragraph 13 asserted that the purported encroachment had exposed him to material loss which can adequately be compensated by way of damages should the 1st plaintiff succeed in his alleged claim. The 4th defendant then sought that the application be dismissed with costs to the defendants.
35. The 2nd defendant filed his submissions dated May 9, 2022 where he submitted that he has tendered evidence demonstrating the validity of his interest over the property known as LR No 20591/19 that was allocated to him in 1997 by the Agricultural Development Corporation while the 1st plaintiff claims a beneficial interest over the suit property that he acquired from the 2nd interested party through purchase but did not demonstrate the purported interest that was held by the 2nd interested party that was later transferred to him.
36. It is on that basis that the 2nd defendant submitted that the plaintiffs have not established a *prima facie* case as they failed to demonstrate that they have any valid interest over LR No 20591/19 capable of legal protection to warrant the orders sought as the 2nd defendant is in actual possession of the property and is duly registered as the proprietor.
37. The 2nd defendant also submitted that the 1st plaintiff failed to demonstrate that he will suffer irreparable harm that cannot be compensated by way of damages and relied on the case of [JM v SMK & 4 others](#) [2022] eKLR. In conclusion, the 2nd defendant submitted that the balance of convenience in this matter tilts in his favor.

Analysis and Determination

38. After considering the application, the responses thereto and the written submissions, the only issue that arises for determination is whether the plaintiffs should be granted the orders sought in their application.



39. The 1st plaintiff in this matter alleges that he is the registered owner of LR No 20591/22, LR No 2059/67 and LR No 2059/80. He also alleges to be the beneficial owner of LR No 20591/19, LR No 20591/20 and LR No 20591/21 after acquiring them from the interested parties and has produced copies of certificates of title in support of his allegations.
40. The 2nd defendant on the other hand alleges to be the registered owner of LR No 20591/19, the 4th defendant alleges that he is the registered owner of LR No 20591/22, the 5th defendant alleges that he is the registered owner of LR No 20591/20 and LR No 20591/21, the 6th defendant also alleges that he is the registered owner of LR No 2059/80 while the 7th defendant alleges to be the registered owner of LR No 20591/67. The defendants have equally annexed certificates of titles in support of their claims.
41. Paragraph 32 of gazette notice No 5178 which is the Practice Directions on Proceedings in the Environment and Land Courts, and on proceedings relating to the environment and the use and occupation of, and title to land and proceedings in other courts give this court the jurisdiction to order the maintenance of status quo so as to preserve the suit property pending the hearing and determination of a suit. It provides as follows:
32. During the *inter-partes* hearing of any interlocutory application, where appropriate, parties are encouraged to agree to maintain status quo. If they cannot agree, after considering the nature of the case or hearing both sides the Judge shall exercise discretion to order for status quo pending the hearing and determination of the suit bearing in mind the overriding interests of justice.
42. Each of the parties also claims to have been in occupation of land that is subject of the instant suit at some point but it is however not contested that the defendants are currently in occupation. The supporting affidavit of the plaintiffs is vital in that it alleges that the defendants will continue with what the plaintiffs term as trespass and continued “squatting” if not enjoined by this court.
43. In a situation where the competing title issued to any of the parties has not been affirmed as valid by the court, it is not possible to confirm whether or not there is trespass at this interlocutory stage of proceedings without prejudicing the hearing of the main suit. It is plain to see that the issue of whether the plaintiffs and the defendants are the true owners of the suit lands, and whether there is trespass on the part of any of them has to be determined after the hearing of the evidence of the parties.
44. Given the circumstances of this case in which each of the parties claims ownership and in order to preserve the subject matter of the properties, it is this court’s view that it should issue orders of status quo, to remain in force pending the hearing and determination of the suit as it is in this court’s view not proper to have activities that may affect the current status of title and the physical nature of the land being undertaken before the conclusion of the suit and in any event before the expected determination of who has right to administer the land.
45. For the foregoing reasons, I hereby order as follows:
- a. The existing status quo of the suit land shall be observed and maintained by all parties pending the hearing and determination of the suit;
 - b. No party shall develop the suit lands, LR No 20591/17, LR No 20591/19, LR No 20591/22, LR No 20591/67 and LR No 20591/80 pending the hearing and determination of the suit;
 - c. An inhibition order is hereby issued in respect of title to the suit land and the registrar of titles shall register the inhibition against the titles to LR No 20591/17, LR No 20591/19, LR No 20591/22, LR No 20591/67 and LR No 20591/80.



46. The parties shall, if they have not fully done so, comply with order 11 of the *Civil Procedure Rules* in order to expedite the hearing of the main suit. The plaintiffs shall perfect their compliance within the first 14 days after this ruling and the defendants shall comply within 14 days of service.
47. This suit will be mentioned on November 30, 2022 to confirm compliance and to issue a hearing date.

Dated, signed and issued at Nakuru via electronic mail on this 19th day of October, 2022.

MWANGI NJOROGE

JUDGE, ELC, NAKURU

