



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 13 of 2007**

1. Land and Environmental Law Division

2. Subject of main suit – land

LR Limuru/Bibirion/T573

LR Limuru/Bibirioni/148

3. Application by plaintiff 11 July 2007

a) That injunction do issue restraining the defendant from selling disposing or alienating and or transferring property LR Limuru Bibirioni/T533 and 148.

b) That defendant be ordered to declare respective shares of beneficiaries.

4. The defendant respondent opposed applicant

a) The suit had been heard in Hcc633/97 and finalize in April 2002

b) That the plaintiff never is in effect an administrator of the state of Chongera Kimani (now deceased)

c) The defendant is complying with the court orders.

5. Held

a) No prima facie case to show matter requires an injunction.

b) The application be dismissed

c) That the plaintiff do pay damages to the defendant herein for this application together with cost.

d) That the suit herein be struck out as being frivolous.

6. Advocate:

C. Wainaina for Kinyua Mwaniki & Wainaina Advocates for the plaintiff/applicant

B.N. Kimani for Ndumu Kimani & Co. Advocates for the defendant/respondent

**NJENGA CHOGERA .....PLAINTIFF**

**VERSUS**

**MARIA WANJIRA KIMANI .....DEFENDANT**

**RULING**

I: Background of application for an injunction

1. The defendant herein Maria Wanjira Kimani is a dowager aged 94 years old. She had been involved in a family court case in Hccc633/97 concerning land. The said parcel of land being Limuru Bibirioni/148 and Limuru Bibirioni T573 were registered in the name of Chongera Kimani her late son.

2. The matter went to the court of appeal which ruled in her favour that she in effect was the rightful proprietor of the land.

3. The plaintiff herein filed this civil suit seeking the same prayer as had earlier been determined by the court in the earlier suit. The said plaintiff did not disclose that he was the administrator of his fathers estate.

II Application of 16 July 2007

4. The plaintiff herein sought injunctive orders to restrain the said defendant from selling, alienating, disposing or in any manner sub-dividing the two particles of land These orders are granted exparte by Visram J on 11 July 2007. The plaintiff gave an undertaking in damages.

5. In reply the respondent defendant stated that this matter in effect had been determined. The order sought contained in the original judgment file.

III: Finding

6. I find that there is no prima facie case to show that an injunction be given.

7. I dismiss this application for an injunction with costs to the plaintiff and damages that is to be paid by the defendant to the plaintiff.

8. I hereby struck out the main suit as being of no merits with costs to defendant.

Dated this 31<sup>st</sup> day of July 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

C. Wainaina for Kinyua Mwaniki & Wainaina Advocates for the plaintiff/applicant

B.N. Kimani for Ndumu Kimani & Co. Advocates for the defendant/respondent