

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MISC APPLICATION NO. 1420 OF 2001

WANZA MUNYAO KIILU ::::::::::::::::::::::::::::::::::: PLAINTIFF
VERSUS
MAUNDU MUTUA ::::::::::::::::::::::::::::::::::: DEFENDANT

Coram: J. W. Mwera J.
10 Kavila Advocate for Applicant/Plaintiff
Kilonzo Advocate for Respondent
C.C. Muli

R U L I N G

By way of Chamber Summons under O.39 rr. 1, 2, 3, 9 Civil Procedure Rules and S. 3A Civil Procedure Act, the plaintiff sought an injunction against the defendant not to interfere in any way with the suit land No. MWALA/MATHUNTHINI/337 which the plaintiff/applicant claimed was transferred and registered in her name by virtue of succeeding to it after the death of her late husband (see P&A CAUSE 20 NO.204/96).

Mr. Kavila argued that the defendant had no right or authority of the plaintiff to get on this land and commit the acts of waste complained of. Mr. Kilonzo submitted that his client the defendant bought the land in issue from on Musee Munyao, a son of the deceased Munyao Kilai by his second wife Ndunge Munyao. That the deceased had two wives – the plaintiff and Ndunge. That he subdivided his land between these two houses before his death. That Musee being entitled to the share given to Ndunge was thus right and entitled to sell his land to the defendant. That accordingly the plaintiff should not be granted injunction whereupon the defendant will virtually be thrown out of the land he has bought, built on and cultivated for long.

This court sees this as a rather involved case but from the material placed before it, it is considered that the orders prayed for be granted. The plaintiff got registered over the subject land after succeeding to the title of her late husband. She alone after that holds the title. It is not shown that the defendant got onto the land by permission or authority of the late Munyao Kavila, the plaintiff or any party with lawful authority to pass rights to him.

In sum the injunction issues until the determination of this suit or further orders.

Orders accordingly.

Delivered on 4th July, 2001.

J. W. MWERA
JUDGE