



REPUBLIC OF KENYA
IN THE ENVIRONMENT & LAND COURT

AT CHUKA

ENVIRONMENT AND LAND CASE NO. 14 of 2019 (OS)

EPHANTUS MPUTHIA M'ANYIRI.....APPLICANT

AND

BONFACE MARANGU.....RESPONDENT

RULING

1. This application is dated 19th June, 2019 and it states on the face of the Notice of Motion that it is brought to court under Section 68 (1) of the Land Registration Act. It seeks the following orders:

1. That this honourable court be pleased to certify this matter urgent and grant the prayers sought in the first instance.

2. That this honourable court be pleased to grant an order of inhibition on LR. KIERA/EAST MAGUTUNI/952 pending the hearing and determination of this application interpartes.

3. That this honourable court be pleased to grant an order of injunction restraining the respondent, his agents, servants or employees from interfering with the applicant's user and occupation of LR. KIERA/EAST MAGUTUNI/952 pending the hearing and determination of this application interpartes.

4. That this honourable court be pleased to grant an order of injunction against the respondent, their agents, (sic) servants (sic) or employees (sic) from interfering in any way with the applicant's user and occupation of LR. KIERA/EAST MAGUTUNI/952 pending the hearing and determination of this suit.

5. That this honourable court be pleased to grant order of inhibition on LR. KIERA/EAST MAGUTUNI/952 pending the hearing and determination of this suit.

2. It is supported by the affidavit of Ephantus Mputhia, the applicant sworn on 19th June, 2019 and has the following grounds:

1. The Respondent wants to sell the suit land to defeat the applicant's interest in this matter.

2. That the Respondent has interfered with the applicant's user and occupation of LR. KIERA/EAST MAGUTUNI/952 by cutting trees and by preventing him from utilizing the land.

3. That the orders sought are merited to protect the subject matter and safeguard the applicant's user and occupation of the suit land.

3. The applicant's supporting affidavit states as follows:

I, EPANTUS MPUATHIA M'ANYIRI of Magutuni, Tharaka Nithi County do make oath and state as follows:-

1. That I am the applicant herein hence competent to make this oath.
2. That on the 2.7.2000, the respondent disposed to me $\frac{3}{4}$ Acre of LR. KIERA/EAST MAGUTUNI/952 and allowed me to take possession of the same to the extent of $\frac{3}{4}$ Acres which I did in the same year.
3. That since the year 2000, I have extensively done developments of the land to the extent of $\frac{3}{4}$ Acres for a period of 19 years to date.
4. That I have planted many trees, nappier grass, planted perennial crops and fully fenced $\frac{3}{4}$ Acres of the said land.
5. That I have been cultivating and staying on the land for a period of about 19 years without any interruption from the respondent and with his knowledge and consent.
6. That I have filed this suit for a declaration that I have acquired the said $\frac{3}{4}$ Acres of LR. KIERA/EAST MAGUTUNI/952 BY way of adverse possession.
7. That when the respondent was served with summons to enter appearance he is making frantic efforts to sell the land to defeat my claim over the land.
8. That the respondent has been chasing me and my family from the land.
9. That the respondent has also after being served with summons entered the suit land and cut down my trees, chased me with an intention of harming me. That he has also interplanted his own crops when I had already planted.
10. That I urge this court to grant me the prayers to safeguard the subject matter and safeguard my occupation.
11. That what is stated herein is true to the best of my knowledge, information and belief.

4. When the application was heard interpartes on 8.7.2019, Mr. Ayub Anampiu, the applicant's advocate, told the court that he was abandoning prayers 2, 3 and 4 and only sought prayer 5 pending hearing and determination of the suit. Mr. Mutani, the respondents advocate, opposed the application in toto in view of his assertion that the applicant had never occupied the suit land.

5. Upon consideration of all pertinent issues, I have decided to allow prayer 5 for an order of inhibition pending hearing and determination of the suit.

6. The applicant is granted 7 days to fully comply with order 11 of the Civil Procedure Rules. The respondent is directed to do so within 7 days after expiry of the 7 days granted to the applicant.

7. The application is deemed heard and determined.

8. Costs shall be in the cause.

9. By **consent, directions** on **30th July, 2019**.

Delivered in open Court at Chuka this **8th day of July, 2019** in the presence of:

CA: Ndegwa

Ayub Anampiu for the applicant

P. M .Mutani for the respondent

P. M. NJOROGI,

JUDGE.