



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC CASE NO. 1 OF 2019 (OS)

JAMES MUTUGI MWITHI.....PLAINTIFF/1ST RESPONDENT

VERSUS

DEDAN MUGO MWANGI.....DEFENDANT

AND

ZIPPORAH KARIGU MUGAMBI.....1ST APPLICANT

JOHN MWATHI M'MUGAMBI.....2ND APPLICANT

JEREMIAH URAUKO MUGAMBI.....3RD APPLICANT

BEATRICE GACHUNKU.....4TH APPLICANT

DAVID MUTUGI KARIGU.....5TH APPLICANT

ESTHER KAREGI MARIGU.....6TH APPLICANT

JOSPHAT NJERU KIAAYA.....7TH APPLICANT

VERSUS

SABERA GAKUNDI MWITHI.....2ND RESPONDENT

BEATRICE KATHAMBI.....3RD RESPONDENT

CHARITY KAINDI.....4TH RESPONDENT

VIRIGINIA MUTHONI.....5th RESPONDENT

JOHN KIMATHI.....6TH RESPONDENT

ALICE KARIMI.....8TH RESPONDENT

GERLAND MUGAMBI.....9TH RESPONDENT

AND

JAMES MWENDAMWITHI.....10TH PROPOSED RESPONDENT

STANLEY MURITHI NYAMU.....11TH PROPOSED RESPONDENT

RULING

1. This application states that it has been brought to court under Section 3A of the Civil Procedure Act, Order 45 Rules 1 & 2 of the Civil Procedure Rules and Section 28 (b) of the Land Registration Act and all enabling Acts.

2. The application is supported by the affidavit of David Mutugi Karigu sworn on **1st October, 2019** which seeks the following orders:

1. This Honorable Court do certify this Application as extremely urgent and the same be heard ex parte in the first instance, service of the same to be dispensed with in the first instance

2. That the Honorable Court be pleased to review and vary its Interim Order of 4th September 2019 to include an order of inhibition against land parcels no. SOUTH THARAKA/TUNYAI 'A'/4586; SOUTH THARAKA/TUNYAI 'A'/4587; SOUTH THARAKA/TUNYAI 'A'/ 4588; SOUTH THARAKA/TUNYAI 'A'/4589, SOUTH THARAKA/TUNYAI 'A'/4590; SOUTH THARAKA/TUNYAI 'A'/4591 and SOUTH THARAKA/TUNYAI 'A'/4592 instead of Land Parcel no. SOUTH THARAKA/TUNYAI 'A' 390

3. That this Honorable Court be pleased to enjoin the 10th, 11th and 12th Proposed Respondents to these proceedings.

4. That the costs of this Application be in the cause.

3. The application has the following grounds:

1. That the register for land parcel no. South Tharaka/Tunyai 'A'/390 has already been closed and new title numbers issued.

2. That land parcel no. South Tharaka/Tunyai 'A'/390 is no longer in existence

3. That land parcel no. South Tharaka/Tunyai 'A'/390 has been sub-divided into seven new land parcel including land parcels no South Tharaka/Tunyai 'A'/4586, 4587, 4588, 4589, 4590, 4591 and 4592.

4. That these new land titles were carved out of land parcel no. South Tharaka/Tunyai 'A'/390 and they have already been registered in the names of the 1st Respondent, 2nd Respondent, 9th Respondent, the 2nd Applicant and the 10th, 11th and 12th Proposed Respondents.

5. That the register for land parcel no. South Tharaka/Tunyai 'A'/390 was closed and the new numbers registered on 29th August 2019 and this fact was not known to the Applicants until 25th September 2019 when the Chuka Land Registrar notified them of this fact.

6. That the Applicant submitted this Honorable Courts orders to Chuka Land Registry on 4th September 2019 but it is not until 25th September 2019 that the Land Registrar disclosed the new developments to the Applicants.

7. That the Applicants had relied on a green card issued by the Chuka Land Registry on 27th August 2019 to obtain the interim orders and had no knowledge that fundamental changes had been carried out in respect of land parcel no. South Tharaka/Tunyai 'A'/390 when they filed their application and when the Interim orders of 4th September 2019 were issued by this Honorable Court.

8. That if the new titles are not inhibited there is real and ever present danger that the land will change hands before this application and suit no. Chuka ELC (OS) no 20 of 2019 is heard and determined.

9. That the 1st and 2nd Respondents have already issued written notices to the Applicants to vacate the suit land and they keep on issuing verbal threats at the Applicants at every opportunity.

4. At the exparte stage, Miss Kithaka told the court that Parcel No. South Tharaka/Tunyai "A"/390 had been subdivided and new numbers had been issued. She prayed for prayer 2 at the exparte stage so that the suit land could be preserved.

5. I issue the following orders:

a) Prayer 2 in the application is hereby granted so that the new parcel numbers can be inhibited forthwith.

b) The applicant is directed to properly serve the application upon the other parties so that the application is **heard interpartes on 8th October, 2019.**

Delivered in open Court at Chuka this 1st day of October, 2019 in the presence of:

CA; Ndegwa

M/S Kithaka for the Applicants

P. M .NJORGE,

JUDGE.