



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**CHUKA ELC CASE NO. E005 OF 2021**

**JGM.....APPLICANT/PLAINTIFF**

**VERSUS**

**HMM.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**JM.....2<sup>ND</sup> DEFENDANT/RESPONDENT**

**IM.....3<sup>RD</sup> DEFENDANT/RESPONDENT**

**RULING**

1. The application states that it has been brought to court under section 17 of the Matrimonial Property Act 2013 and Sections 28(a) and 93(2) of the Land Registration Act.

2. The application seeks the following orders:

a) THAT this Honourable court be pleased to certify this application as urgent and be heard exparte in the first instant.

b) THAT this Honourable court do issue an order of inhibition, preservation / restraining any dealings with land parcel number LR. **MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx, MAGUMONI/THUITA/ xxxx** pending the hearing and determination of the divorce and matrimonial property proceedings.

c) THAT this Honourable Court do issue an order of temporary injunction against the respondents restraining themselves, their agents or servants from transferring or seeking any of the above mentioned properties pending the finalization divorce and matrimonial property proceedings.

d) THAT cost of this application be provided for.

3. The application is supported by the affidavit of JGM and has the following grounds:-

(i) THAT the applicant being the legal wife of the 1<sup>ST</sup> Respondent has spousal rights over land parcel number LR. **MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx, MAGUMONI/ THUITA/ xxxx**.

(ii) That the applicant has come to learn that the 1<sup>ST</sup> Respondent has already started disposing off properties without her consent as required under the law.

(iii) THAT there is a great imminent danger of the 1<sup>ST</sup> Respondent disposing off the remainder of the properties to the detriment of the applicant.

(iv) That it is in the interest of justice that this application be allowed inhibiting any dealings on the said parcel of land pending the hearing and determination of the proceedings pertaining to this matter.

(v) THAT the 2<sup>nd</sup> and the 3<sup>rd</sup> Respondent bought the land parcels from the 1<sup>ST</sup> Respondent without obtaining spousal consent from

the Applicant.

4. This application has been handled in chambers in the absence of the applicant.

5. Having considered the pleadings filed by the applicant in this matter, I have come to the conclusion that it merits being heard with the input of the applicant and the respondents. Regarding prayers b and c, I am of the view that prayer b, if granted can suffice to protect the suit property. However, in view of the fact that the ELC Court has no control over divorce and matrimonial proceedings, I am unable to grant prayer b as it is crafted. I will, therefore, grant prayer b pending hearing and determination of this application by the ELC Court.

6. In the circumstances, I issue the following orders:

- a) An order of inhibition as prayed for in prayer b is granted STRICTLY pending the hearing and determination of this application by the ELC Court.
- b) The applicant is directed to properly serve this application upon the respondents within 10 days of today.
- c) The application will be heard interpartes on **27<sup>th</sup> July, 2021**.
- d) Costs shall be in the cause.

Delivered in Chambers at Chuka this **30<sup>th</sup> day of June, 2021** in the presence of:

CA: Ndegwa

Applicant absent

**P. M. NJOROGI,**

**JUDGE.**