



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA ELC CASE NO. E006 OF 2021**

**IN THE MATTER OF THE CONSTITUTION OF KENYA (2021) AND  
IN THE MATTER OF THE LAND REGISTRATION ACT (NO. 3 OF 2012) AND  
IN THE MATTR OF CIVIL PROCEDURE ACT AND RULES ENACTED AND  
IN THE MATTER OF SHARING AND PRESERVATION OF MATRIMONIAL PROPERTY  
IN THE MATTER OF THE MATRIMONIAL PROPERTY ACT NO. 49 OF 2013**

**BETWEEN**

**FRANCIS MBAKA.....APPLICANT**

**VERSUS**

**AGNES WANJA FRANCIS.....RESPONDENT**

**RULING**

1. This application is dated **23<sup>rd</sup> July, 2021**. It states that it has been brought to court under Section 17 of the Matrimonial Property Act and under Section 28(a) and Section 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 instance.
  - b) That this honourable court do issue an order of inhibition, preservation/ restraining any dealings with land parcel number LR. Karingani/Gitareni/2206, LR. Karingani/Gitareni/2774, LR. Karingani/Gitareni/2342 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 respondent restraining the defendant, her agents or servants from transferring or seeking any of the above mentioned properties pending the finalization divorce and matrimonial property proceedings.
  - d) That costs of this application be provided for.
3. The application is buttressed by the supporting affidavit of the applicant, Francis Mbaka, and has the following grounds:
  - a) That the applicant being the legal husband of the respondent has spousal rights over land parcel number, L.R. KARINGANI/GITARENI/2206, L.R.Karingani/Gitareni/2774, L.R. Karingani/Gitareni/2342.
  - b) That the applicant has come to learn that the Respondent has started bringing some buyers on the properties with interest of disposing off properties without his consent as required under the law.
  - c) That there is a great imminent danger of the Respondent disposing off the properties to the detriment of the applicant.
  - d) That it is in the interest 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.

4. At this ex parte stage, pending hearing of this application, I am inclined to only grant (b) for inhibition in order to preserve the suit property.

5. I issue the following orders:

a) The application is **NOT** certified urgent but will be heard on priority basis.

b) Prayer b is granted

c) The application will be heard inter partes on **21<sup>st</sup> September, 2021**.

d) Costs shall be in the cause.

**Delivered in Chambers at Chuka this 26<sup>th</sup> day of July, 2021 in the presence of:**

**CC: Ann**

**Ruling delivered in the absence of the parties**

**P. M. NJOROGE,**

**JUDGE.**