



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT KERUGOYA

MISC. APPLICATION NO. E1 OF 2020

EDITH MUTHONI MUCHIRI.....1ST PLAINTIFF

JANE RUGURU NYAGA.....2ND PLAINTIFF

VERSUS

CECILIA WAMUYU NYAGA.....1ST DEFENDANT

ALICE WANJIRU NYAGA2ND DEFENDANT

ALBERT MBUTE.....3RD DEFENDANT

JOHN NGAIRE NUNGAKO4TH DEFENDANT

SLAYFORD MURIITHI EPHANTUS5TH DEFENDANT

BANCY WAMBUI6TH DEFENDANT

AND

SUSAN WANJIRA NYAGAAPPLICANT

RULING

By a Notice of Motion brought under certificate of urgency dated 10th September 2020, the Applicant sought the following orders:

1. Spent

2. That the Honourable Court be pleased to grant leave to the firm of MAGEE LAW LLP to come on record for the interested Party/ Applicant.

3. That the Honourable Court be pleased to issue an order for an inhibition to stop any further dealings and/or transactions relating to Land Parcel No. NGARIAMA/KABARE/1902, 1903, 2082, 1905, 1906 and 1907 pending the hearing and determination of the application herein.

4. That the Honourable Court be pleased to issue an order granting leave to the Applicant to appeal against the ruling delivered on 31st December 2019 out of time.

5. That the Honourable Court be pleased to issue an order for an inhibition to stop any further dealings and/or transactions on land parcel No. NGARIAMA/KABARE/1902, 1903, 2081, 2082, 1905, 1906 and 1907 pending the hearing and determination of the Appeal herein.

6. That the Honourable Court be pleased to issue any other order that it deems fit.

7. That costs of the application be in the Cause.

The application is premised on the following grounds:

- a. That Susan Wanjira Nyaga, the Applicant, is a wife to the deceased NYAGA GACHOKI CHII who was the initial owner of that land NGARIAMA/KABARE/391 before it was sub-divided.
- b. That all the parcels L-R. NGARIAMA/KABARE/1902, 1903, 2081, 208, 1905, 1906 and 1907 are sub-divisions of that land L.R. No. NGARIAMA/KABARE/391.
- c. That in the periods of 10th December 1993, the land NGARIAMA/KABARE/391 was registered into the names of NYAGA GACHOKI, EDITH MUTHONI MUCIRI, JANE RUGURU NYAGA, CECILIA WAMUYU NYAGA and ALICE WANJIRA NYAGA each holding a 1/5 share.
- d. That EDITH MUTHONI MUCIRI, JANE RUGURU NYAGA, CECILIA WAMUYU NYAGA are step daughters to the Applicant and daughters to NYAGA GACHOKI CHII.
- e. That NYAGA GACHOKI CHII died on 21st June, 2015.
- f. That on 6th December, 2018 Letters of Administration were issued to SUSAN WANJIRA NYAGA.
- g. That the Applicant, SUSAN WANJIRA NYAGA wishes to protect the Estate and her interest.
- h. there is a pending Succession Cause at Gichugu Law Courts being Succession Cause No. 4 of 2018.
- i. That the ruling delivered on 31st December 2019 was delivered per *incuriam*.
- j. That the Applicant intends to appeal against the same.
- k. That the Appeal has a very high chance of success.
- l. That the Respondents misrepresented the facts and had the land sub-divided without adherence to the Court ruling and further moved to have the name of NYAGA GACHOKI CHII deleted from the register.
- m. That this deletion was illegal and irregular as the matter ought to have been subjected to a Succession Cause.
- n. That the Applicant has a draft memorandum of Appeal raising concrete and water tight grounds.
- o. That the Applicant delay in filing the Appeal was occasioned by lack of information on when the ruling was rendered.
- p. THAT she could not get hold of her advocate as the firm had closed due to the Covid-19 Pandemic.
- q. That for a very long time, the Applicant could not raise the fees for an Appeal and as being an indigent, she went to her former Member of Parliament Hon. Martha Karua who then assisted in getting her the counsel on record pro bono.

Applicants summary of Facts

The Applicant in her supporting affidavit and further affidavit sworn on a 10th September and 4th December 2020 deposed as follows:

1. That she is wife to one Nyaga Gachoki Chii (deceased) who was the initial owner of land parcel Number NGARIAMA/KABARE/391 before it was sub-divided.
2. That NYAGA GACHOKI CHII died on 21st June, 2015
3. That on 6th December 2018, Letters of Administration were issued to her
4. That all the parcels L.R NGARIAMA/KABARE/1902, 1903, 2081, 2082, 1905, 1906 and 1907 are sub-divisions of that land.
5. That in the periods of 10th December, 1993 the NGARIAMA/KABARE/391 was registered into the names of NYAGA GACHOKI, EDITH MUTHONI MUCIRI, JANE RUGURU NYAGA, CECILIA WAMUYU NYAGA and ALICE WANJIRA NYAGA each holding 1/5 share.
6. That EDITH MUTHONI MUCIRI, JANE RUGURU NYAGA, CECILIA WAMUYU NYAGA and ALICE WANJIRA NYAGA are her step-daughters and daughters to NYAGA GACHOKI CHII.
7. That she wishes to protect the Estate and her interest.

8. That there is a pending succession cause at Gichugu Law Courts being Succession Cause No. 4 of 2018.
9. That she intends to Appeal against the ruling delivered on 31st December 2019.
10. That her application dated 5th February 2019 was well grounded.
11. That the Court ought to have reviewed the Consent Order as it was irregular in its spirit and letter.
12. That she was never involved in the consent that proposed that she be given ½ an acre whereas she should have been given 1/5 share that she has always been utilizing.
13. That she is informed by her advocate which information she believes to be true that Court erred in its finding that the ownership of that Land Parcel No. NGARIAMA/KABARE/391 was a joint tenancy instead of a tenancy in common.
14. That the land No. NGARIAMA/KABARE/391 has since been sub-divided as per the green cards and the ownership is follows:
 - a. On 7th May 2019 the title to NGARIAMA/KABARE/391 was closed as it was sub-divided to six parcels, 1902-1907.
 - b. That Parcel No. NGARIAMA/KABARE/1902 is now registered under CECILIA WAMUYU.
 - c. That Parcel No. NGARIAMA/KABARE/1903 is now registered under EDITH MUTHONI, ALICE WANJIRU, JANE RUGURU and CECILIA WAMUYU.
 - d. That Parcel No. NGARIAMA/KABARE/1904 has been sub-divided into No. NGARIAMA/KABARE/2081 & 2082.
 - e. Parcel No. NGARIAMA/KABARE/2081 is now registered under ALBERT MBUTE MACHARIA.
 - f. That Parcel No. NGARIAMA/KABARE/2082 is now registered under EDITH MUTHONI.
 - g. That Parcel No. NGARIAMA/KABARE/1905 is registered under JOHN NGAIRE NUNGAKO.
 - h. That Parcel No. NGARIAMA/KABARE/1906 is registered under ALICE WANJIRU NYAGA.
 - i. That Parcel No. NGARIAMA/KABARE/1907 is registered under SLAYFORD MURIITHI EPHANTUS and BANCY WAMBUI.
15. That it is evident that the land parcels are being transferred to other persons and an inhibition to stop further transfer is essential.
16. That everything notwithstanding the Court can also observe that the ½ acre that she was to be given is no longer in existent.
17. That the appeal has a very high chance of success.
18. That the Respondents misrepresented the facts and had the land sub-divided without adherence to the Court Ruling and further moved to have the name of NYAGA GACHOKI deleted from the register.
19. That this deletion was illegal and irregular as the matter ought to have been subjected to a Succession Cause.
20. That she has a draft memorandum of Appeal raising concrete and water tight grounds.
21. That her delay in filing the Appeal was occasioned by lack of information on when the ruling was rendered.
22. That she could not get hold of her Advocate as the firms had closed due to the Covid-19 Pandemic.
23. That for a very long time, she could not raise the fees of an Appeal and as being an Indigent she went to her former Member of Parliament Hon. Martha Karua when then assisted in getting her the Counsel on record on pro bono.
24. That the averments in this application are true and undertakes to pay damages should her averments turn out to be untrue.
25. That she indeed wishes to appeal against the Ruling delivered by Hon. E.O Wambo on 31st December 2019 in ELC No.15 of 2015 (Kerugoya).
26. She denied that the Respondents have been willing to give her ½ share and that she has never shown any such interest.
27. That she is desirous of having her Appeal heard and that she has even requested for proceedings.

28. That if the application is allowed, it will cement her merited desire to appeal and will allow the Court to hear the matter on its merits.
29. That the tithing of the application is an inadvertent mistake and the same is not fatal as no essential party will be left unheard.
30. That it is only proper to place an inhibition on all the parcels to protect the Estate of NYAGA GACHOKI CHII so that the Court can determine what goes to the Estate as the impugned consent had the name of NYAGA GACHOKI CHII deleted.
31. That she disputes the shares and sub-divisions done and therefore to have an order of inhibition will assist in not rendering the application/Appeal nugatory.
32. That her husband left a will and indicated that she was to take whatever is left after each daughter takes their share and that the purported distribution/sub-division herein does not put the will into consideration.
33. That she has been advised by her advocate which advice she believes to be true that leave was sought for the firm to come on record on her behalf in place of the former advocate M/s J. Ndana & Co. Advocates and the leave was granted. She further stated that the only way to set aside the said leave is through a formal application and that she even communicated to her formal Counsel Mr. Ndana.
34. That the consent reached on 16th August, 2018 was void because she was never consulted nor is it in conformity with the law.

Respondents summary of Facts

The Respondents opposed the application vide a replying affidavit sworn by Edith Muthoni Muchiri on 25th September, 2020 and stated as follows:

1. That the Applicant has deliberately failed to disclose material facts relevant in this case.
2. That the land parcel number NGARIAMA/KABARE/391 initially belonged to her father the now late Nyaga Gachoki Chii. It measures 2.82 hectares.
3. That on 10/12/1993, her father caused the suit land to be registered jointly in his name and his 4 daughters namely Edith Muthoni Muciri (her), Jane Ruguru Nyaga, Cecilia Wamuyu Nyaga and Alice Wanjiru Nyaga.
4. That ten (10) years after the joint registration of the suit land in their names, her father then aged 89 years got married to the Applicant who was 48 years old, almost half the age of her father.
5. That barely one year later, in 2004, somebody by the name Andrew K. Ruiru took advantage of her father's age and misled him into signing some transfer papers. That person then filed Nyeri HCCC No. 35 of 2004 and an order was issued, without their knowledge, that the names of the four daughters be removed from the title of the land, and another title be issued in the sole name of Nyaga Gachoki Chii. Subsequently the title for the land was closed on sub-division mutating into now portions namely Ngariama/Kabare/1047, 1048, 1049 and 1050. The said third party Andrew K. Ruiru made himself joint owner of the parcels of land together with her father.
6. THAT they got to learn of the new development and by then they were weak financially. Her together with her sisters decided to approach an advocate in Kerugoya by the name P.M. Muchira, and who agreed to recover for them for free. In the event that he was to succeed in recovering the earlier orders and having the land revert to the former position of the original number jointly registered in their father's name jointly with the four sisters, they promised to surrender one acre to him. That agreement was reduced into writing.
7. THAT by that time, the applicant was very new in the family and therefore took no role in the recovery process of the land.
8. That they were successful in that after litigation, all the resultant portions were cancelled and the land reverted to her sister and their father jointly.
9. That after losing in that case, the said Andrew K. Ruiru lodged a caution on the land, and they threatened him with a legal action that made him to withdraw the caution.
10. That her father died on 26/1/2015. In those few years that he lived with the applicant, they did not get any child.
11. That her two sisters, the two defendants herein, seemed to renege on the agreement that they had with the advocate who was handling the Nyeri High Court matter, and the advocate started demanding for payment of his legal fees. She together with the 2nd plaintiff filed Kerugoya CM ELC No. 15 of 2018 against their two other sisters seeking for orders that the Court do compel the transfer of one acre to the said advocate as per the agreement.
12. That on 16th August, 2018 a consent order was recorded as follows:

- a. The restriction lodged against the title of L.R No. Ngariama/Kabare/391 be lifted.
 - b. The name of Nyaga Gachoki Chii, the deceased from the register of land parcel number Ngariama/Kabare/391 and another title deed be issued in her name and the names of her three other sisters, jointly.
 - c. One acre out of the suit land be excised and transferred to the above-stated advocate and in default a valuation be done and the defendants pay the valued amount to the advocate as his legal fees.
 - d. Of the remaining 6 acres, ½ acre be transferred to the Applicant and the remaining 5.5 acres be shared by her and her three sisters.
 - e. Each party was to bear its own costs of the suit.
13. That the Applicant herein moved that court seeking for orders of review of the consent order, alleging that she was entitled to 0.56 hectares from the suit land.
14. That some interim inhibition orders were issued, but upon hearing the application inter-parties, the same was dismissed. The Court stated that the property was jointly owned, and under the principle of jus accrescendi, the surviving joint owner gets it all. Indeed there was nothing in law to compel them to give the Applicant ½ acre. Its only that they recognized her as their father's wife in old age, since their mother had passed on.
15. That pursuant to the Court order that had been issued by consent, they executed the consent order. They reserved land parcel number Ngariama/Kabare/1903 measuring 0.20 hectares (0.5 acres) to be for the Applicant. They have all along been ready, able and willing to transfer the said portions to her, a fact well known to her as they have been reasoning that she takes positive steps to have the said land transferred to her.
16. That since the judgement was delivered, the applicant has taken her sweet time before taking any action. She hasn't indicated when she learnt of the ruling, and if indeed she's desirous of appealing, why she hasn't even applied for the typed copy of the proceedings. To date, other than just this application, there is nothing on record showing intention and will to appeal. Granting the orders sought is not a matter of right. The Court is being called up to exercise its discretion based on the material facts placed before it and which discretion must be exercised judiciously.
17. That the application is also defective. There are no plaintiffs, defendants or an interested party at this stage. The heading of the application is quite misleading and wrong.
18. That going by the Applicant's own affidavit, her interest is only on 1/5 share of the original parcel which she believes was the share of her deceased father. She cannot therefore purport to place inhibition orders on all the seven (7) resultant portions, as it's her fact acknowledgement that 4/5 share of the land belongs to her and her sisters. Order three should therefore fail.
19. That in the entire affidavit in support of the Notice of Motion, there are no grounds to warrant granting leave to file appeal out of time. The delay is not reasonably explained. If anything, the intended appeal has no basis in law for reasons to be explained later. Orders 3, 4 and 5 should therefore fail.
20. That at the time of joint registration in 1993, the applicant was not a member of our family. Indeed, there was no imagination that one day, the Applicant would be her father's wife.
21. That the green card which she has annexed and marked EMM1 shows that the registration was a joint one. The search certificate for the suit land dated 13th March, 2018 which is on page 25 of bound application (though not paginated, and which appears just after a document written in Kikuyu language and untranslated) shows the registration was joint. The applicant cannot therefore purport to lay a share out of an alleged 1/5 portion.
22. That the mere filing of a succession cause at Gichugu Court cannot change the mode of registration of the suit land. If anything maybe the Applicant knows of other properties belonging to her deceased father and which requires to be succeeded. She cannot stop her from filing what she feels is her entitlement or stop her from going to court in a succession matter. Equally, she cannot force her to participate in a succession matter which she don't know its worth.
23. That even if assuming that the Applicant is right that the Estate of her late father was to get 1/5 share from the joint ownership, but which position is wrong legally, it would mean that 1/5 of 6 acres, after factoring the one acre already ruled to be given to the advocate who made the land to come back to the family translates into 1.2 acres.
24. That assuming then that the whole of 1.2 acres was what is to be considered to devolve upon the death of her father to the Applicant she's not legally entitled to the whole land, since she has no children. According to *Section 36(1) (b) of the Law of Succession Act* her entitlement is 20% of 1.2 acres, which is about 0.24 acre, less than ¼ acre. They were therefore very generous to him/her ½ acre.

Applicants Submissions

The Applicant, through the firm of Magee Law LLP referred to an application dated 5th February 2019 filed in ELC (C.M, Kerugoya) No. 15

of 2015 and a ruling by the Court rendered on 31st December 2019 and submitted that the Court erroneously made a finding that the ownership of Land parcel No. NGARIAMA/KABARE/391 was a joint tenancy without any evidence being tabled by the Respondent. The learned counsel referred to the *Black's Law Dictionary 8th Edition* on the definition of joint tenancy. They also referred to the *Land Registration Act No. 3 of 2012 Section 91(2) and (3)*.

The Applicant submitted that Land Parcel No. NGARIAMA/KABARE/391 was a tenancy in common being that is the presumption required under *Section 91(2) of the Land Registration Act* as read with *91(3)(b)*. He submitted that a joint tenancy cannot be presumed. He cited the case of *Re Estate of John Ngumba Njoroge (deceased) (2018) e KLR*.

The Applicant also cited the case of *Joseph Njoroge Vs Reuben Waweru Mberia (2017) e KLR* and submitted that for a long time, she was not aware of the ruling and when she discovered this, time had already lapsed. She submitted that immediately upon learning of the ruling, she commenced the process of appealing. In conclusion, the Applicant submitted that a party should be accorded an opportunity to exhaust all remedies available to him provided that the opposite party has not shown what prejudice they would suffer if the application is allowed. The Applicant further submitted that she will suffer much prejudice as she has been utilizing 1/5 of the suit land since she got married to the deceased on 21st June, 2003 and that the Respondents have not denied.

Respondents Submissions

The Respondents through the firm of Maina Kagio & Co. Advocates gave an overview of the facts and the law. They stated that on 10/12/1993, the land was registered jointly in the names of Nyaga Gachoki and his 4 daughters. Ten years after the joint registration, the applicant got married to Nyaga Gachoki Chii. One year after she got married, there were fraudulent transactions over the suit land whereby one Andrew K. Ruirie sued Nyaga Gachoki Chii and duped him into signing a consent order and the names of the 4 daughters were removed from the title of the land, Nyaga Gachoki Chii became the sole proprietor and the suit land was subdivided into four portions whereby the said Andrew Ruirie and Nyaga Gachoki Chii became the joint owners of the resultant portions of the sub-division.

The Respondents further submitted that upon learning of the fraudulent transactions, the 4 daughters who are the 1st, 2nd, 7th and 8th Respondents engaged an advocate to review the consent orders, and to reverse all the transactions. Due to lack of finances, the agreement with the advocate was that should the advocate be successful in recovering the land, the legal fees would be paid in kind by getting one (1) acre from the suit land. The daughters were successful in that suit land and their joint registration with their father (deceased) was reinstated. In the recovery process, the Applicant was not bothered at all and never participated in any way. If anything, she bore no child with the now deceased Nyaga Gachoki Chii. They submitted that upon getting back the land, two sisters reneged on their agreement to pay the legal fees in kind. That prompted the other two sisters who are the 7th and 8th Respondents herein to file a suit against the other 2 sisters, the 1st and 2nd Respondents. By this time, Nyaga Gachoki Chii had passed on. Later, the sisters were able to agree and they recorded a consent order in court. The caution that Andrew K. Ruirie had lodged against the title of the land was removed. The name of Nyaga Gachoki Chii was removed. The name of Nyaga Gachoki Chii the deceased joint owner was deleted from the register. One acre was to be given to the advocate as payment of his legal fees. Of the remaining six acres, the Applicant was to receive ½ acre while the four sisters were to share the 5 ½ acres.

They argued that the Applicant herein then sought to be enjoined in the case and sought for review of the consent order, alleging that she was enlisted to 0.56 hectares, and not 0.20 hectares. Upon hearing all parties, the Applicant's application was dismissed. By this time, the suit land had been partitioned and new numbers created among them parcel number NGARIAMA/KABARE/1903 measuring 0.20 hectares (½ acre) and meant for the Applicant. The 3rd to 6th Respondents are bona fide purchases for Value without Notice.

Despite losing in that ruling, the Applicant took no action. It is only after nine months that this application was filed. The respondents

submitted that the application is defective, bad in law and without merit. Further, there are no grounds of Appeal worth of consideration. The Respondents also submitted that from the hearing of application, there are two (2) plaintiffs, two (2) defendants and some respondents. This is an application seeking for extension of time to appeal, yet the heading seems to suggest that there is already an existing suit which has plaintiffs and defendants which is erroneous.

Further, the respondents submitted that the 3rd to 6th defendants were not parties in the suit filed in the lower court whose ruling is being impugned. There is no order to enjoin them. At best they remain strangers and no order can issue against them, more so in respect of the resultant parcels of land that were registered in the names of the 3rd to 6th Respondents.

Again, the legal provisions cited are not relevant at all as the relevant provisions are *Section 79 G CPA* as well as *Order 50 Rule 6 CPR* and none has been cited. On the prayer for leave to change Advocates, the Respondents submitted that in the lower court, the Applicant was represented by the firm of J. Ndana & Co. Advocates who are presumed to be the advocates for the Applicant all through, including review or appeal –

See *Order 9 Rule 5 CPR*.

For there to be leave to change Advocates, *Order 9 Rule 9 CPR* comes to play. It requires the outgoing advocate to be served with the application seeking to have him replaced. They submitted that no evidence has been shown that the said firm of J. Ndana & Co. Advocates were served and that no leave was sought and obtained as deposed in paragraph 12 of the Applicants further affidavit. It is further submitted that if indeed leave was sought and obtained; there is no explanation why the Applicants are seeking a similar order again.

The respondents submitted that though it is possible to combine other prayers with an order for change of Advocates, *Order 9 Rule 10 CPR* makes it mandatory that the issue of change of Advocates/leave to represent may be determined first. On that ground, the respondents submitted that the entire application should fail.

Regarding the orders for inhibition, the Respondents submitted that the Applicant has not called the relevant citation which is *Section 68* of the Land Registration Act and that such orders cannot issue to persons who were not parties in the initial suit and no prayer has been sought to enjoin them in the present application.

On the prayer for extension of time to appeal, the Respondents submitted that the orders are discretionary and can only be granted judicially upon giving good and convincing reasons why the appeal was not filed in time. They argued that the Ruling was delivered on 31/12/2019 and that the Applicant has not stated when she learnt of the ruling. They also submitted that the Applicant had an advocate on record who has sworn an affidavit stating when he learnt of the ruling.

The Respondents also argued that the Applicant seems to give an excuse of Covid-19 pandemic. They submitted that in 2019, there was no such disease in December 2019. Even when the disease was reported in the country, the court operations were only downscaled but the registries were not closed. There is no reason why the applicant could not apply for typed proceedings in time.

On the merits of the intended Appeal, the Respondents submitted the joint registration was done on 10/12/93 during the regime of the now repealed *Registered Land Act Cap 300 Laws of Kenya*. They submitted that *Section 102(1)* provides that a joint registration carries with the right of *jus accrescendi*, the right of survivorship. They submitted that the said section states that whoever dies loses everything, and the whole property goes to the surviving owner(s). They referred to the green card annexed with replying affidavit of Edith Muthoni Muchiri Entry No. 3.

They referred to the Applicants submissions in paragraphs 14 and 17 and submitted that the *Sections of the Land Registration Act* cited by the Applicant are irrelevant as the act does not operate retrospectively but progressively. The Respondents cited the case of *Isabel Chelangat Vs Samuel Tirop Rotich & 5 others (2012) e KLR* where a distinction of joint ownership and land held in common was clarified. They also cited the case of *MUKAZITON JOSPHINE VS ATTORNEY GENERAL REPUBLIC OF KENYA (2015) e KLR*.

Legal Analysis and Decision

I have considered the affidavit evidence and the submissions by the parties. I have also considered the applicable Law. From the facts given in the affidavit evidence particularly the replying affidavit of Edith Muthoni Muchiri sworn on 25th September, 2020 and that of Slayford Muriithi Ephantus sworn on 23rd October, 2020, it is not in dispute that the original parcel of Land Parcel Number NGARIAMA/KABARE/391 belonged to Nyaga Gachoki Chii (deceased). On 10/12/1993, the said land was registered jointly in the names of Nyaga Gachoki Chii and his four daughters namely: Edith Muthoni, Jane Ruguru, Cecilia Wamuyu and Alice Wanjiru, each holding a 1/5 share.

Where persons are registered as joint proprietors with defined share(s), the nature of ownership is tenancy in common. **Section 101 of the Land Act Cap 300** reads as follows:

“An instrument made in favour of two or more persons and the registration giving to it shall show: -

- a. Whether these persons are joint proprietors or proprietors in common; and
- b. Where they are proprietors in common, the share of each proprietor” (Emphasis ours).

It is clear from the provisions of the law that where the share is defined, then the nature of tenancy is common. It therefore follows that where one of the tenant dies, the only way his/her share can be dealt with is by taking out succession proceedings. The manner in which the share belonging to the Estate of Nyaga Gachoki Chii through a consent whereby the name of the said Nyaga Gachoki Chii was deleted was unlawful and illegal.

The upshot of my finding is that the Notice of Motion dated 10th September, 2020 is merited and the same is allowed as follows:

- 1. The firm of MAGEE LAW LLP is authorized to appear for the interested party/Applicant.**
- 2. An order of inhibition is hereby issued inhibiting any further dealings and/or transactions relating to Land Parcel No. NGARIAMA/KABARE/1902, 1903, 2081, 2082, 1905, 1906 and 1907 for a period of 60 days pending filing of the intended Appeal.**
- 3. The costs of this application be borne by the Respondents.**

RULING SIGNED, DELIVERED PHYSICALLY AND SIGNED IN OPEN COURT AT KERUGOYA THIS 23RD DAY OF JULY, 2021

.....

E.C. CHERONO

ELC JUDGE

In the presence of:-

1. Kabuta – Court clerk.