



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

CIVIL SUIT 215 OF 2016

JUSTUS KIRIMI FRANCISPLAINTIFF

VERSUS

JOHN NTONGAI.....DEFENDANT

R U L I N G

1. This application is dated 28th October, 2016 and seeks orders:-

- a. That the Honourable Court be pleased to certify this application as urgent and hear the same exparte in the first instance.*
- b. That the Honourable court be pleased to issue an order of injunction restraining the defendant whether by himself and/or through his assigns, servants and/or anyone else acting at his behest from in anyway whatsoever interferring with the plaintiff's user and/or occupation of land parcel number NJIA/BURIERURI/5519 pending the hearing and determination of this application or until further orders of the court.*
- c. That the Honourable Court be pleased to issue orders of inhibition restraining any dealings in land parcel number NJIA/BURIERURI /5519 pending the hearing and determination of this application or until further orders of the court.*
- d. That the Honourable Court be pleased to confirm prayers 2 & 3 supra.*
- e. That the Honourable Court be pleased to issue any further and/or better orders as shall meet the ends of justice herein.*
- f. That costs of this application be provided for:-*

2. The application is supported by the affidavit of the applicant and has the following grounds:-

- a. The Plaintiff has bought the suitland from the defendant.*
- b. The Plaintiff has paid the defendant Kshs. 550,000*
- c. The Dependant intends to dispose the suitland to the third parties after receiving his share of 0.85 acres.*

3. On 10th November, 2016, an Interim Order of Inhibition to be registered against Land Parcel No. NJIA /BURIERURI/5519 was granted.

4. The application was fixed for Interpartes hearing on 29th November, 2016.
5. The Applicant told the Court that the respondent was properly served with the date slated for interpartes hearing but had refused to come to court.
6. The applicant prayed that the application be allowed.
7. I note that there is an affidavit of service. I find that the respondent was properly served but chose not to come to court.
8. I confirm the order for Inhibition in terms of prayer 3 in the application.
9. I am unable to grant the prayer for Injunctive Orders against the defendant in view of the fact that the suit land is registered in the name of the defendant. Granting that order will amount to delving into a disputed issue concerning the ownership of the suitland. Ownership can only be established during determination of the suit after it is heard.
10. The application is deemed heard and determined.
11. Costs shall be in the cause.
12. It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 7TH DAY OF DECEMBER, 2016 IN THE PRESENCE OF:-

CA:Daniel/James

Justus Kirimi Francis -Applicant

John Ntongai -Respondent Absent

P.M. NJOROGE

JUDGE