



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

E & L NO 56 OF 2015

HELLEN KATHURE alias KELLEN KATHURE MIRITI (Legal REP. OF THE ESTATE OF HANIBAL MIRITI KANAMPIU -DECEASEDPLAINTIFF

VERSUS

BARENTE M'ANAMPIU M,'BARANYA alias

BARENTE M'ANAMPIU M'BARANYA.....DEFENDANT

RULING

This application is dated 22/07/2015 and seeks orders:-

1. ***THAT this application be certified urgent owing to its urgent nature and the Honourable Court be pleased to hear the same ex-parte in the first instance and accordingly issue ex-parte orders.***
2. ***THAT the Honourable Court be pleased to issue an order of injunction restraining the defendant/respondent, his servant, agents, employees, assignees and/or anybody else acting on his behalf from evicting and /or interfering with the plaintiff/applicant and her siblings' occupation and use of LAND PARCEL NO. IGOJI/GIKUI/2414 pending the hearing and determination of this suit.***
3. ***THAT the Honourable Court be pleased to issue a Penal Notice for non compliance of any order and/or orders to be issued by this Honourable Court upon service.***
4. ***THAT the Honourable Court be pleased to issue a Penal Notice for non compliance of any order and/or orders to be issued by this Honourable Court upon service.***
5. ***THAT the costs of this suit be provided for.***

It has the following grounds:-

1. ***LAND PARCEL NO. IGOJI/GIKUI/2414 is registered in the names of the Defendant/ Respondent herein to hold it in trust for the plaintiff/applicant and her siblings.***
2. ***The said LAND PARCEL NO. IGOJI/GIKUI/2414 is a share of the family land which was to be transferred to the plaintiff/applicant's father one HANIBAL MIRITI KANAMPIU - DECEASED who was the son to the defendant/ respondent herein who died before the said land could be transferred to him.***
3. ***The said LAND PARCEL NO. IGOJI/GIKUI/2414 is exclusively occupied and utilized by the***

plaintiff/applicant and her siblings who have extensively developed the said land.

4. *The Plaintiff /applicant's parents namely HANIBAL MIRITI KANAMPIU and SCHOLARSTICAL KAGENDO MIRITI are interred in the said LAND PARCEL NO. IGOJI/GIKUI/2414.*
5. *The Defendant in complete breach of the trust and complete disregard of the plaintiff and her siblings occupation of LAND PARCEL NO. IGOJI/GIKUI/2414 is in the process of disposing off the same to a third party with the sole intention of having the plaintiff/applicant and her siblings denied their ancestral and /or family land.*
6. *The defendant /respondent is threatening to evict the plaintiff/applicant and her siblings from LAND PARCEL NO. IGOJI/GIKUI/2414.*
7. *Unless this application is allowed, the plaintiff and her siblings will suffer irreparable loss because they are orphans and have no other piece of land to live and eke their living.*
8. *It is only just and fair that this application be allowed.*
9. *No prejudice will be occasioned to the Defendant if the orders sought herein are granted because the defendant had a share of the ancestral land.*

When this matter came up for directions on 12/10/2015, the applicant and his advocate were not in Court even though they were aware that this matter was coming to Court today. In the Circumstances, and to expedite the hearing of the main suit, I issue the following orders:-

1. *Prayers 2 and 3 in the application are confirmed.*
2. *Prayer 4 is granted.*
3. *Costs shall be in the cause.*

Delivered in Open Court at Meru this 12th day of October, 2015 in the presence of:-

Nyamu Nyaga for the applicant.

P. M. NJOROGE

JUDGE