



REPUBLIC OF KENYA

IN THE ENVIROMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO. 234 OF 2014

NASHILU ENOLE SOPIAPLAITNIFF

VERSUS

SWAKEI SOPIADEFENDANT

RULING

(Application for injunction; application unopposed; application allowed)

1. This suit was commenced by way of plaint filed on 8 August 2014. Together with the plaint, the plaintiff filed an application for injunction, which is the subject of this ruling. So far, the defendant has not entered appearance and has neither filed defence nor any response to the subject application.

2. The plaintiff is the widow of one Ranka Ole Sophia (deceased) and she holds a grant of letters of administration ad litem for the estate of the deceased. Ole Sophia died in the year 1994. It is averred that Ole Sophia was the legal allottee of the land parcel Narok/Cis-Mara/Olkinyei/1210 (the suit land) which is land measuring approximately 170 acres. The defendant is one of the three sons of Ole Sophia. The plaintiff's case is that the defendant fraudulently caused the suit land to be registered into his names. Among the particulars of fraud is that the defendant registered himself as proprietor without considering the interests and rights of the other members of the family. In the suit, the plaintiff wants orders to have the defendant's title nullified.

3. To the supporting affidavit, the plaintiff annexed a copy of letters of administration ad litem; Certificate of Death for the late Ole Sophia; a copy of what was said to be a register of Olkinyei Group Ranch; transfer of the suit property from Olkinyei Group Ranch to the deceased; and a search certificate showing that the defendant became registered on 10 November 2011 as proprietor of the suit property. The property is leased to an entity called Porini Limited.

4. I have considered the application. The same is not opposed. On my part I do not see why I should not allow it. I think the plaintiff has tabled some evidence that the suit property was owned by the deceased. It is not clear to me how the defendant obtained registration and without an explanation from him, I am of the view that a prima facie case that the defendant may have obtained registration of the suit property irregularly, has been laid out. The balance of convenience also tilts in favour of preserving the property.

5. I therefore allow the application and make the following orders :-

(i) The defendant is hereby barred from selling, charging, further leasing, or in any way dealing with the property Narok/Cis-Mara/ Olkinyei/1210 pending hearing and determination of this suit.

(ii) *That an order of inhibition is hereby issued, barring the registration of any disposition in the register of the land parcel Narok/Cis-Mara/Olkinyei/1210 pending hearing and determination of this suit.*

(iii) *Costs shall be in the cause.*

6. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 8TH day of October 2015.

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT

AT NAKURU

In presence of :-

Ms Nchoe holding brief for Ms Muigai for plaintiff/applicant

Defendant: absent

Court Assistant : Janet

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT

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