



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

PETITION NO. 28 OF 2015

**IN THE MATTER OF ENFORCEMENT OF FUNDAMENTAL RIGHTS AND FREEDOMS OF
THE INDIVIDUAL**

AND

IN THE MATTER OF ARTICLE 40 OF THE CONSTITUTION OF KENYA 2010

AND

**IN THE MATTER OF LAND PARCEL MEASURING APPROXIMATELY 1000 ACRES
KIIRUA/KISIMA AREA**

ARITHI SELFHELP GRAZING GROUP

THRO'

M'INOTI M'RUKARIA (CHAIRMAN)

JAMES MBOGO MIRURU (SECRETARY)

MARTHA KOOME (TREASURER).....PLAINTIFFS/APPLICANT

VERSUS

THE LAND ADJUDICATION OFFICER IMENTI NORTH/SOUTH/

MERU CENTRAL &BUURI1ST DEFENDANT/RESPONDENT

THE HON. ATTORNEY GENERAL.....2ND DEFENDANT/RESPONDENT

INTERIM RULING

This application is brought Under Articles 19, 20, 22, 23, 40, 47 and 48 as read with articles 159, 258 and 259 of the Constitution and order 40 Rules 1 and 2 of the Civil Procedure Rules and all other enabling provisions of the law. The application seeks orders:

- 1. THAT this application be certified urgent and be heard ex-parte in the first instance due to the urgency of the matter.**
- 2. THAT an order of temporary injunction be issued restraining the 1st defendant/respondent by themselves, their agents, servants, or assigns from entering into, alienating, sub-dividing, altering boundaries, allocating or in any other way interfering with LAND PARCEL**

MEASURING APPROXIMATELY 1000 ACRES KIIRUA/KISIMA AREA pending the hearing and determination of this application, and until hearing this petition or until further orders of this honourable court.

3. **THAT in the alternative a conservatory order be issued prohibiting the defendants/respondents from allocating the plaintiffs' parcel of land to any one claiming either on their own behalf or their behest of the defendants/respondents herein parcel measuring approximately 1000 acres KIIRUA/KISIMA area bordering Laikipia and Islamic foundation Pending the hearing and determination of this application, and until hearing petition or until further orders of this court.**
4. **THAT cost of this application be borne by the respondents.**

The application is supported by the affidavit of M'inoti M'Rukaria, the applicant and has the following grounds:

1. ***THAT the land parcel rightfully belongs the petitioners.***
2. ***THAT the land was allocated to the petitioners in 1982 and all proceedings of the said allocation are well documented.***
3. ***THAT the petitioners have kept the relevant authorities on alert so as they can be granted legal ownership of the land through numerous correspondences but the same have not yielded any positive results.***
4. ***THAT the entire process to deny the petitioners of land that is rightfully theirs is a scheme and conspiracy by the 1st and 2nd respondents.***
5. ***THAT the respondents have hatched a conspiracy to deny the petitioners right to own property as guaranteed under the Constitution of Kenya 2010.***

The application came up for interpartes hearing on 4.11.2015. Mrs Kaume for the petitioners told the Court that the application was not opposed. Miss Kungu for the respondents told the court that she needed 45 days to obtain instructions from her client, the Land Adjudication Officer, Imenti North/South Meru Central and Buuri.

I rule as follows:

1. **the Respondents are granted 45 days to respond to the Petition.**
2. **The parties are accorded liberal leave to reply, if and as necessary.**
3. **As there is need to preserve the suit property, Prayer 2, THAT an order of temporary injunction be issued restraining the 1st defendant/Respondent by themselves, their agents servants, or assigns from entering into, alienating, subdividing, altering boundaries, allocating or in any other way interfering with the LAND PARCEL MEASURING APPROXIMATELY 1000 ACRES/KISIMA AREA pending the hearing and determinant of this application, is granted.**
4. **Costs shall be in the cause.**

It is so ordered.

Delivered in Open Court at Meru this 4th day of November, 2015 in the presence of:

Cc. Daniel/Lilian

Mrs Kaume for the Petitioners

Miss Kiongo for Respondents

P. M. NJOROGI

JUDGE