



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC CASE NO. 24 OF 2019

IN THE MATTER OF SECTION 28(H) OF THE LAND REGISTRATION ACT NO. 3 OF 2012

AND IN THE MATTER OF ORDER 37 RULE 7 OF THE CIVIL PROCEDURE RULES 2010

AND IN THE MATTER OF SECTION 38 OF THE LIMITATION OF ACTIONS ACT

CATHERINE WANJA NJOKA.....1ST PLAINTIFF

DOROTHY KAGENDO MURIUKI.....2ND PLAINTIFF

VERSUS

JOHN NJAGI DAN.....DEFENDANT

RULING

1. This application is dated **17th December, 2019** and seeks orders:

1. That this application be certified urgent.
2. That pending the interpartes hearing of this application an order of inhibition do issue restraining the registration of dealings in respect of L.R. No. Karingani/Ndagani/91.
3. That pending the hearing and determination of this application and the main suit an order of inhibition do issue restraining the registration of dealings in respect of L.R. No. Karingani/Ndagani/91.
4. That costs of this application be in the cause.

2. The application has the following grounds:

1. That the defendant is the registered owner of the suit lands.
2. That the plaintiffs have continuously occupied a portion measuring approximately two (2) acres in the suit land for a period exceeding twelve (12) years.
3. That the plaintiffs lay claim to ownership of a portion measuring two (2) acres from the suit land predicated on the doctrine of adverse possession.
4. That in order to preserve the suit property prior to the hearing of the plaintiffs claim it is necessary that an order of inhibition be issued.

3. When the application was slated for interpartes hearing on **23.9.2020**, the parties consented to have the application allowed so that they could, without delay, canvass a Preliminary Objection against the entire suit filed by the defendant.

4. Consequently, the following orders are issued:

a. The application is allowed with costs to be in the cause.

b. The Preliminary Objection filed by the defendant and dated **2nd June, 2020** will be canvassed first with the proponent filing his submissions within the **next 7 days** and the plaintiffs doing so **within 7 days after** receipt of the proponents written submissions.

c. Parties will come to court to confirm filing of submissions on **12.10.2020**.

Delivered in open Court at Chuka this 23rd day of September, 2020 before:

CA: Ndegwa

Mark Muriithi for the plaintiffs

Muthomi Gitari for the defendant

P. M. NJOROGI,

JUDGE