



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA

ELC CASE NO. 9 OF 2014

EDWARD GITHAKA KIANDINGU.....PLAINTIFF

VERSUS

MARY NAOMI MWANGI.....1ST DEFENDANT

LUCY WANGECHI MUTERO.....2ND DEFENDANT

RULING

The Applicant Mary Naomi Mwangi who is also the 1st defendant in this case filed this application dated 13th July 2020 seeking the following orders:-

- 1. That this Honourable Court be pleased to order the Kirinyaga Land Registrar to remove the prohibitory orders filed by the plaintiff/respondent on land parcel No. GICHUGU/SETTLEMENT/SCHEME/674 and 675.*
- 2. That this has been occasioned by the dismissal of a suit filed by the plaintiff/respondent herein in Suit No. 9 of 2014 on 19th June 2020.*
- 3. That the costs of this application be provided for.*

The application is supported by the affidavit of the applicant sworn on 13th July 2020. The respondent/plaintiff did not file a replying affidavit or grounds of opposition in response thereto.

Factual Statement

The applicant in her supporting affidavit stated that the plaintiff/respondent had filed this suit claiming interest in land parcel No. GICHUGU/SETTLEMENT/SCHEME/674 and 615. However, this suit was fixed for hearing and that the same was determined in her favour on 19th June 2020. The applicant further contends stated that prior to filing this suit, the respondent/plaintiff had placed a prohibitory order on the register prohibiting any dealings on the land pending the hearing and determination of the suit. Upon determination of the suit on merit there is therefore no cause shown why the restriction cannot be removed. When the application came up for hearing, the applicant filed an affidavit of service together with a copy of the Notice of Motion dated 13th July 2020 showing that the original copy had been served upon the firm of Eddie Njiru & Co. Advocates notifying them of the hearing of this application on 28th July 2020. Being satisfied that the respondents were duly served through a recognized agent, this Court directed the matter to proceed Ex-parte.

Legal Analysis And Decision

The plaintiff/respondent had instituted this suit vide a plaint dated 20th January 2014 and filed in Court on 22nd January 2014 seeking an order directing the cancellation of the names of Titus Mwangi and Benson Muriuki as the registered owners of land parcels No. GICHUGU/SETTLEMENT/SCHEME/674 and 675. After hearing the parties on merit, this Court rendered itself on 19th June 2020 by dismissing the suit with costs to the defendants/applicants.

The application by the applicants dated 13th July 2020 is not opposed. I am satisfied that no reasonable cause has been shown or given why the prohibitory orders cannot be removed.

Conclusion

For the foregoing reasons, I find the Notice of Motion dated 13th July 2020 merited and the same is hereby allowed as prayed. The costs of

the application shall be borne by the plaintiff/respondent.

READ, DELIVERED and SIGNED in open Court at Kerugoya this 18th day of September, 2020.

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E.C. CHERONO

ELC JUDGE

In the presence of:

1. Respondent – present
2. Applicant/Advocate – absent
3. Mbogo – Court clerk.