



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 258 OF 2017

FORMERLY MERU ELC. CASE NO. 116 OF 2017

ALVIN MBAE.....1ST PLAINTIFF

ALICE MBIRO (THRO' ALVIN MBAE AS NEXT FRIEND)...2ND PLAINTIFF

WILSON MBAABU.....3RD PLAINTIFF

VERSUS

KINYUA MUKATHA..... 1ST DEFENDANT

MONICA K. MUGO.....2ND DEFENDANT

ANDERSON NKONGE MUGO.....3RD DEFENDANT

RULING

1. This application is dated **18th August, 2020** and seeks orders:

1. That this application be certified urgent and service of the same be dispensed with and or same be heard ex-parte in the first instance, and or issue directions for hearing on 13th day of October, 2020 when the other defendant's application dated 23rd July, 2020 will be heard.
2. That this honourable court be pleased to grant leave to the firm of Kiogora Mugambi Co. Advocates for the defendants.
3. That the honourable court be pleased to allow one Edwin Nyaga Mukatha to proceed with matter as the legal representative of Kinyua Mukatha the 1st defendant herein who died on 21st October, 2006 for the purpose of execution of court judgment herein and other related proceedings.
4. That the honourable court be pleased to vacate the inhibition orders placed on Mwimbi/Murugi/1715 of vide a court order in HCC No. 3 of 2001 and equally be pleased to vacate all cautions registered on parcel No. Mwimbi/Murugi and 1715 respectively.
5. That the honourable court be pleased to make an order compelling the plaintiffs to give vacant possession to the defendants in parcel referred as Mwimbi/Murugi/1715 the property of the 1st defendants.
6. That honourable court be pleased to make an order of eviction of the plaintiffs from occupation possession and or any dealing whether physical possession or otherwise from parcel No. Mwimbi/Murugi/1715.
7. That the honourable court be pleased to direct the officer commander Chogoria Police Station to provide security during eviction of the plaintiff from suit land Mwimbi/Murugi/1715 respectively and further make an order directing Beeline Auctioneers to execute the orders of the court.
8. Costs of the suit be provided for.

2. The application has the following grounds:

1. That the 1st defendant Kinyua Mukatha is the owner of parcel No. Mwimbi/Murugi/1715.
2. .
3. That litigation must come to end.
4. That there have been several suit filed by the plaintiff where the court has pronounced itself and dismissed suits thereof against the plaintiffs.
5. That a degree of this court is never issued in vain hence the plaintiffs must belong to the rule of law.
6. That the defendants are desirous land entitled to enjoyment of judgment of this court.
7. That the plaintiffs have been in occupation of the suit property Parcel No. Mwimbi/Murugi/1715 in the illegally against equity.
8. That the honourable court be pleased to allow one Edwin Nyaga Mukatha to proceed with matter as the legal representative of Kinyua Mukatha the 1st defendant herein who died on 21st October, 2006 for the purpose of execution of court judgment herein.
9. That the continued infringement to the defendants right by the plaintiffs is against fundamental principles of law.
10. That this court in its wisdom dealt extensively on the issue of all related filed cases in respect of the parties herein and properties thereon and as such HCC No. 3 of 2001 Meru is among them and thus this court has powers to issue orders as prayed in tandem with its judgment.
11. That the court having pronounced itself and there being no appeal lodged and or any appeal arguable with chances of success then this court is possessed of the power to free and protect the said parcel No. Mwimbi/Murugi/1715 from any caution, inhibition and illegal possession and user and thereby be pleased proceed to make the orders as prayed and or sought.
12. The plaintiffs' actions are illegal and inimical to good order in the society and/or conduct of relationship unless evicted the applicants shall be highly prejudiced and shall suffer irreparable loss and damages not compensable by any award of damages.

3. The application is supported by the affidavit of Edwin Nyaga Mukatha, an Interested Party, sworn on **18th August, 2020**.

4. When the matter was slated for interpartes hearing on **13th October, 2020**, Mr. Barrison Gitari, holding brief for the firm of S.G. Mbaabu advocates, told the court that the firm sought leave of court to come on record for the plaintiff so that they could file a response to the application.

5. Advocate Kimathi Kiara, holding brier for advocate Kiogora Mugambi, told the court that he was not opposed to the oral application.

6. In the circumstances, the firm of S.G. Mbaabu & Co. Advocates is allowed to come on record to represent the plaintiffs.

Delivered in open Court at Chuka this **13th day of October, 2020** in the presence of:

CA: Ndegwa

Barrison Gitari h/b S.G. Mbaabu for the plaintiffs

Kimathi Kiara h/b Kiogora Mugambi for the defendants.

P. M. NJOROGE,

JUDGE.