



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

ELC CASE NO. 164 OF 2013

SUSAN GATIRIA M'MUKIRA.....1ST PLAINTIFF

CATHERENE MAKANDI MUTWIRI.....2ND PLAINTIFF

DAVID MUTUMA M'IRINGO.....3RD PLAINTIFF

EDITH KAIRUTH.....4TH PLAINTIFF

DOREEN MUKUBA.....5TH PLAINTIFF

VERSUS

BEATRICE KURI FRANCIS.....DEFENDANT

R U L I N G

The application herein is dated 26th June, 2013. The Orders are:

It seeks orders 1, 2, 3, 4, 5, 6 and 7. Orders 1 to 3 are spent. The Orders sought are:

1. **THAT** the application be certified urgent and it be heard *ex-parte* in the first instance.
2. **THAT** pending inter-partes hearing of the application, an inhibition be issued, inhibiting registration of any dealings over L. R. No. NTIMA/IGOKI/ 5569.
3. **THAT** pending *inter partes* hearing of the application, an order be issued compelling the defendant/respondent to be liquidating the Kshs.4,000,000/= loan, secured through a charge registered against L. R. No. NTIMA/IGOKI/5569 on 28.03.2013, in favour of the financier, ECOBANK KENYA LIMITED.
4. **THAT** pending hearing and determination of the suit or until further orders of the court, an inhibition be issued, inhibiting registration of any dealings over L. R. No. NTIMA/IGOKI/5569.
5. **THAT** pending hearing and determination of the suit or until further court orders, an order be issued compelling the defendant/respondent to liquidate the Kshs.4,000,000/= loan as mutually agreed between the defendant/respondent & and the financier. ECOBANK KENYA LIMITED, secured by a charge registered over L. R. No. NTIMA/IGOKI/ 5569 on 28.03.2013.

6. **THAT in the alternative to prayer 5 above, an order be issued compelling the defendant/respondent to offer an alternative security for the Khs.4,000,000/= loan advanced to her by ECOBANK KENYA LIMITED, in order to discharge L. R. NTIMA/IGOKI/ 5569, pending hearing and determination of th sit or until court orders.**
7. **THAT costs be the application be provided.**

During inter partes hearing, the advocate for the applicant satisfied the Court that the Defendant/Respondent had been duly served but failed to be present during the hearing. Nevertheless, the hearing took place.

The advocate stated that he was relying on the grounds on the face of the Notice of Motion and the apposite averments. As the application was not opposed, he urged the Court to grant prayers 4, 5, 6, and 7 in the application.

I find that the application is not opposed. I find prayers 5 and 6 t be difficult to implement. Prayer 6 is especially difficult to implement as no evidence was tendered to show that the respondent was in a position to offer alternative security. Although Ecobank Kenya Limited is not enjoined in the suit, I will grant prayers 4 and 5.

In the circumstances, I grant prayers 4, 5, and 7 in the application dated 26th June, 2013.

Dated, Signed and Delivered in Open Court this 9th day of July, 2013 in the presence of :

Carl Peters Mbaabu for plaintiff

Defendant – Absent

P. M. NJOROGE

JUDGE