



**REPUBLIC OF KENYA**

**High Court at Bungoma**

**Civil Case 6 of 2010**

**ALI MALALA WAMUKOYA** ..... **PLAINTIFF**  
~VRS~  
**ALI OLANDO OKWETO** ..... **1<sup>ST</sup> DEFENDANT**  
**THE DISTRICT LANDS**  
**REGISTRAR BUNGOMA** ..... **2<sup>ND</sup> DEFENDANT**  
**ATTORNEY GENERAL** ..... **3<sup>RD</sup> DEFENDANT**  
**RULING**

There is no dispute that land parcel no.E.Bukusu/S.Kanduyi/2199 has been subdivided into land parcels E. Bukusu/S.Kanduyi/13027, 13028, 13029, 13030, 13031, 13032 and 13033. The subdivisions are each in the name of the 1<sup>st</sup> Defendant. The Plaintiff's case is that he was the registered proprietor of the original title (2199) which the Defendants fraudulently caused to be sub-divided into the above titles and registered in the name of the 1<sup>st</sup> Defendant. The suit was brought to have the titles cancelled and to have them revert into the original title in the name of the Plaintiff. With the suit was filed an application under Order 39 rules 1 and 2 of the Civil Procedure Rules for a temporary injunction to restrain the Defendants, and all those acting through them, from wasting, damaging, alienating, trespassing, selling, removing and/or otherwise disposing the parcels. In the alternative, an order was sought for the Defendants to maintain *status quo* as of 25/1/2010 over the suit parcels.

The defence of the 1<sup>st</sup> Defendant was that he was the registered proprietor of 2199 which he subsequently subdivided as indicated and therefore there was no merit in the suit and application as the Plaintiff has no claim to the parcels.

The Plaintiff did not demonstrate by production of title or search certificate that he was at any time the registered proprietor of 2199. The resultant parcels are all registered in the name of the 1<sup>st</sup> Defendant. It would be unusual to injunct the registered owner of a piece of land, or to put a restraint on his right to own, occupy and use the land. The application has no merit and is dismissed with costs.

Dated, signed and delivered at Bungoma this 10<sup>th</sup> day of October, 2012.

**A. O. MUCHELULE**  
**JUDGE**