



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

CORAM: GACHUHI, OMOLO & AKIWUMI, J.J.A.

CIVIL APPLICATION NO. NAI 189 OF 1995

BETWEEN

MARY WAHITO MBUGUA APPLICANT

AND

PETER MBUGUA NJUHIGU

GEORGE RUHOHI MBUGUA

JAMES NJUHIGU MBUGUA

MARY KIRIA KIARIE

MARY WAMBUI MBUGUA RESPONDENTS

(Application for interlocutory injunction from the orders of
the High Court of Kenya at Nairobi (Bosire J) dated 19th
June, 1995

in

H.C.C.C. NO. 1370 OF 1995)

RULING OF THE COURT

The applicant Mary Wahito Mbugua is the daughter of the 1st respondent Peter Mbugua Njuhiga. The 1st respondent is or at some stage was the registered owner of various pieces of land in Kiambu District. The applicant wants us to stop her father from transferring those lands and her claim is apparently brought on the basis that as a daughter of the respondent she, like the other children entitled to inherit land from the

father and that the court should prevent her alleged right to inheritance being rendered nugatory in the event that the 1st respondent is allowed to dispose of the lands. We think this application is totally frivolous; like the Judge of the High Court, we very much doubt whether there would be any legal basis upon which court can prevent a man from using that which is admittedly his own in the manner he pleases. We are not even aware that there is a law which requires a man to preserve his property so that his children can exercise their alleged right of inheritance in the event of the man dying. What we are in fact saying is that the applicant has not shown to us that she has an arguable appeal.

We have very grave doubts on the legal basis of her claims.

That being our view of the matter this application fails and we order that it be dismissed with costs to the respondents.

Dated and delivered at Nairobi this 19th day of October, 1995.

J. M. GACHUHI

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JUDGE OF APPEAL

R. S. C. OMOLO

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JUDGE OF APPEAL

A. M. AKIWUMI

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR