



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT MERU**

**ELC CASE NO. 17 OF 2018**

**CUSTOMER SELF SERVICE AND**

**GENERAL CONTRACTORS COMPANY LTD.....PLAINTIFF**

***VERSUS***

**EVANGELINE NKATHA ALIAS BAJEREN NKATHA...DEFENDANT**

**RULING**

1. The application dated 5.4.2018 seeks the following orders:

- (i) Spent.
- (ii) That the Honourable court be pleased to order that the status quo (plaintiff is in possession) be maintained pending hearing and determination of this suit.
- (iii) That the honourable court be pleased to order the temporary registration of inhibition and or restriction upon land reference No. Nkuene/Uruku/762 pending hearing of this application inter-parties and pending the hearing of the suit.
- (iv) That the honourable court be pleased to issue any such further orders as it deems fit to meet the ends of justice.
- (v) That costs of this application be borne by the respondent

2. The grounds in support of the application are that;

- (a) The applicant is a purchaser for value who is in possession.
- (b) The applicant has carried on extensive development projects on the land estimated to be worth millions of shillings.
- (c) The applicant is privy to the fact that the respondent has hatched a scheme to fraudulently report that the original title is lost, when she is perfectly sure and aware that Applicant is keeping it, in order to obtain another title and by pass him.
- (d) In all sound circumstances the orders are deserved and will not prejudice the respondent/defendant.

3. The application is further supported by the affidavit of Festus Muriungi Kinoti the managing director of the applicant, to buttress its claim that it is entitled to the prayers sought herein.

4. The Respondent has filed a Replying affidavit where she has deponed that it is the Respondent who has frustrated the performance of the

contract by inter alia, bringing issues of land size, claiming that it has paid sh. 13,400 000 yet it has paid sh. 6 000 000, and claiming that the developments on the land belong to the plaintiff, yet they belong to the defendant.

5. Applicant is in agreement that the status quo ought to be maintained.

6. On 28.11.2018, directions were given by this court for the application to be canvassed by way of written submissions. I have perused the record and I find that the respondent has not filed their submissions.

7. I have looked at the application and I find that the orders sought are meant to preserve the suit land.

8. The application of 5.4.2018 is therefore allowed and each party is to bear their own costs of the application. However, **the orders are to remain in force for a period of one year only.**

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 6<sup>TH</sup> MARCH, 2019 IN THE PRESENCE OF:-**

C/A: Kinoti

Muthiani for applicant

**HON. LUCY. N. MBUGUA**  
**ELC JUDGE**