



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 10 OF 2019

SARAPHINE MBAE RITHAA.....PLAINTIFF

VERSUS

FAUSTINO KANGORI M'NAIROBI.....DEFENDANT

RULING

1. This application states that it has been brought to court under section 68 of the Land Registration Act, 2012 and sections 1A, 1B and 3A of the Civil Procedure Act.

2. The application seeks the following orders:-

That this application be certified as urgent and that it be heard ex parte in the first instance.

a. That an order of inhibition do issue restraining any dealings whatsoever with land parcel no. MUTHAMBI/KANDUNGU/445 pending the hearing and determination of this application.

b. That an order of inhibition do issue restraining any dealings whatsoever with land parcel no. MUTHAMBI/KANDUNGU/445 pending the hearing and determination of the main suit or until further orders of this court

c. The court do issue an order for temporary injunction restraining the defendant whether by himself, his servants, agents or any person whomsoever acting on his behalf from doing any of the following acts that is to say ejecting, selling, leasing, charging or otherwise interfering with the Plaintiff/Applicants quiet, peaceful, actual and exclusive possession, cultivation, use, development and enjoyment of the portion measuring one acre (1) out of land parcel no. MUTHAMBI/KANDUNGU/445 pending the hearing and determination of this suit.

d. That the costs of this application be provided for.

3. The application has the following grounds:

i) The Applicant has been in occupation of the suit land since 1998.

ii) That the Respondent is threatening the Applicant with eviction from the suit land

iii) That the Applicant is apprehensive that he will suffer irreparable damages if he is evicted from the suit land.

iv) The land is also in danger of being alienated or disposed of by the Defendant since it is registered in his names.

v) The Applicant has filed a suit claiming adverse possession of the suit land and the said suit has overwhelming chances of success.

4. When the application came up for interpartes hearing the parties proffered a consent which was in the following terms:

BY CONSENT “ *The application dated 13th May, 2019 be allowed in terms of prayers c and d. Costs to be in the cause.*”

5. The consent was signed by advocate Ann N. Kithaka for the applicant and advocate Rimita, holding brief for advocate I.C. Mugo for the respondent.

6. The consent is adopted as an order of this court. Consequently, prayers c and d are allowed and costs shall be in the cause.

7. This application is deemed heard and determined.

8. It is so ordered.

Delivered in open Court at Chuka this **29th day of May, 2019**

in the presence of:

CA: Ndegwa

Miss Kithaka for the Applicant

Rimita h/b I.C. Mugo for the Respondent

P.M. NJORGE

JUDGE