



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 77 OF 2004

DANIEL MUTHURI.....1ST PLAINTIFF/RESPONDENT

BENSON KINOTI.....2ND PLAINTIFF/RESPONDENT

VERSUS

M'IKIARA KARIGI..... DEFENDANT/APPLICANT

RULING

1. By a notice of motion filed on 16.11.2018, the applicant/defendant seeks the following orders:

(i) That this honourable court be pleased to order that the inhibitions lodged in respect of parcels of land no. Abothuguchi/Kithirune/3255, 3283, 3284 and 3285 be removed or lifted.

(ii) That the costs of this application be borne by the respondents.

2. The grounds in support of the application are;

(i) That the plaintiff/respondent in the course of the proceedings and in particular on 30th day of May 2017 lodged an inhibition against ABOTHUGUCHI/KITHIRUNE/3255, 3283, 3284 and 3285 the subject of this suit until the suit herein is heard and determined.

(ii) That there is nothing pending in view of the consent orders recorded in court on the 30th April, 2013 and registered in court on the 4th day of July 2013.

(iii) That the prayers sought are intended to effect the consent orders of 30th April, 2013 registered in court on the 4th day of July 2013.

(iv) That all subsequent applications to wit the notice of motion dated 5th December 2016, 30th May 2017 and 13th March 2018 have since been dismissed with costs to the defendant/applicant.

3. The applicant has also sworn a supporting affidavit filed on 16.11.2018.

4. No response was filed in opposition to the application.

5. I have perused the record and I find that indeed this is a concluded matter pursuant to the judgment given by the court on 4.7.2013.

6. It is also on record that plaintiffs obtained orders on 14.12.2016 pursuant to an application dated 5.12.2016, whereby inhibition orders were placed on the aforementioned land parcels. That application has since been dismissed.

7. It follows that the orders given on 14.12.2016 should not remain in force.

8. I also note that no response was ever filed in respect of the application of 15.12.2018, hence this application is unopposed.

9. I find that the application dated 15.11.2018 is merited. The same is allowed and costs shall be borne by respondents (plaintiffs).

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 8TH DAY OF MAY, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Kithaka holding brief for Otieno for plaintiff

1st plaintiff

HON. LUCY. N. MBUGUA

ELC JUDGE