



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**

**AT KERICHO**

**ELC CASE NO. 49 OF 2016**

**MARGARET YEGON.....PLAINTIFF/APPLICANT**

**VERSUS**

**MILLICENT CHEPNGENO.....1<sup>ST</sup> RESPONDENT**

**CHRISTOPHER KIBET YEGON.....2<sup>ND</sup> RESPONDENT**

**WILLIAM KIPNEGETICH YEGON.....3<sup>RD</sup> RESPONDENT**

**PATRICK KIPROTICH YEGON.....4<sup>TH</sup> RESPONDENT**

**RULING**

**Introduction**

1. By a Notice of Motion dated 3.12.2018 brought pursuant to Order 40 of the Constitution and Order 40 Rules 1 and 2 of the Civil Procedure Rules as well as Section 68 of the Land Registration Act, 2012, the Plaintiff/Applicant seeks the following orders:

a) Spent.

b) That an order of inhibition do issue inhibiting the sub-division sale, transfer or any other dealings in respect to land parcels numbers KERICHO/KIPSONOI S.S /1903, 1904, 1095, 1906, 1907 and 1908 being sub-divisions of land parcel number KERICHO/KIPSONOI S.S/288 pending the hearing and determination of the this application.

c) That the Land Registrar, Bomet County be directed to register a caution in the names of the Applicant on the parcels of land known as KERICHO/KISONOI S.S/1903,1904,1905, 1906,1907 and 1908 pending the hearing and determination of this suit.

d) That any such order or further order be made as the honourable court shall deem just and expedient.

e) That the costs of this application be provided for.

2. The application is premised on the grounds stated on the face of the application and the Applicant's supporting affidavit sworn on the 3<sup>rd</sup> December 2018. In the said affidavit the Plaintiff depones that she is

the widow and administrator of the estate of Paul Kimutai Yegon –deceased who was allocated land parcel no. KERICHO/KIPSONOI S.S /288 and that she occupies the said parcel of land. She further depones that the Respondents have sub-divided the said parcels of land into six portion without involving her and she fears that they might dispose of the land thus defeating the purpose of this suit. To the said affidavit she has annexed a copy of a certificate official search in respect of land parcel no KERICHO/KIPSONOI S.S /288 in the name of Taita Arap Marisin. She has also attached copies of certificates of official search in respect of parcels no. KERICHO/KIPSONOI S.S 1903-1908 which are in the names of the Respondents save for parcel number KERICHO/KIPSONOI S.S/ 1904 which is in the name of Taita Marisin.

3. The application is opposed by the 3<sup>rd</sup> Respondent through his Replying affidavit sworn on 1<sup>st</sup> April 2019. The gist of the said affidavit is that the late husband of the Plaintiff is the son of Taita Arap Marisin who is the registered owner of the original parcel of land known as KKERICHO/KIPSONOI/288. The said Arap Marisin is still alive and he is the one who sub-divided his land among his children including the plaintiff's late husband. The Plaintiff therefore has no basis to complain as the land belongs to her father in law.

4. That being the position, the Plaintiff has failed to demonstrate that she has *prima facie* case with a probability of success in accordance with the principles in **Giella v Cassman Brown**.

5. Her application is therefore without merit and I dismiss it.

6. The costs of this application shall be in the cause.

**Dated, signed at delivered at Kericho this 14<sup>th</sup> day of June, 2019.**

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**J.M ONYANGO**

**JUDGE**

**In the presence of:**

1. Miss Ngetich for the Plaintiff/Applicant
2. No appearance for the Defendant/Respondent
3. Court clerk - Rotich