



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC PETITION CASE NO. 04 OF 2019

IN THE MATTER OF LAND PARCEL NO. MWIMBI/MUGUMANGO/594

AND

IN THE MATTER OF ARTICLES 40 AND 165 OF THE CONSTITUTION OF KENYA, 2010

BETWEEN

NYAGA MUCHIRI.....1ST PETITIONER

PURITY MWATHOKO.....2ND PETITIONER

VERSUS

THOMAS NJIRU KANYUNGA.....1ST RESPONDENT

MICHERU KANYUNGA.....2ND RESPONDENT

DISTRICT LAND ADJUDICATION & SETTLEMENT

OFFICER MERU SOUTH.....3RD RESPONDENT

LAND REGISTRAR, MERU SOUTH.....4TH RESPONDENT

CHIEF LAND REGISTRAR.....5TH RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....6TH RESPONDENT

RULING

1. The application states that it has been brought to court pursuant to Rules 23 and 24 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 and Section 68 of the Land Registration Act. The application seeks the following orders:-

1. That the application be certified urgent.
2. That an interim order of inhibition do issue restraining the registration of dealings in LR. No. Mwimbi/N. Mugumango/594 pending the interpartes hearing of this application.
3. That an order of inhibition do issue restraining the registration of dealing in L.R. No .Mwimbi/N. Mugumango pending the hearing and determination of
4. That costs of this application be provided for.

2. The application has the following grounds:

1. That the 1st petitioner is the registered as the owner of Mwimbi/N. Mugumango/594.
2. That the said parcel of land is the subject of these proceedings
3. That the 1st respondent has put out the suit land for sale and various potential buyers have visited the same for inspection.
4. That unless dealings in respect of the suit land are inhibited, the 1st respondent will move the suit land further from the reach of the petitioners.
5. That the purpose of this application is to preserve the suit land pending the determination of the issues at variance between the parties herein.

3. The application is supported by the affidavit of Nyaga Muchiri the 1st petitioner, which states:-

I, NYAGA MUCHIRI an adult male of sound mind and of **C/O P. O. Box 2913, Meru** do hereby make oath and state as follows:-

1. That I am the 1st petitioner herein properly versed with all the issues stated herein.
2. That I have the authority of my co-petitioner to make and swear this affidavit.
3. That the subject matter of this petition is L.R.No. Mwimbi/N. Mugumango/594 which is registered in my names. (Annexed herein and marked "NM1" is a copy of a certificate of official search in respect of the said parcel of land).
4. That the 1st respondent is soliciting for buyers of the suit property and has brought several potential purchasers to inspect the same.
5. That I am apprehensive that the 1st respondent shall deal with the suit property in a manner that shall jeopardize the proper litigation of this petition.
6.
7. That it is in the interest of justice and fairness that these orders are sought.
8. That I depose to the foregoing believing the same to be true to the best of my knowledge, belief and understanding.

4. When the matter was slated to be heard *ex parte* on **16th October, 2019**, the applicants and their advocate were not in court. Having perused the certificate of urgency and the Notice of Motion application, both dated **9th October, 2019**, I find that granting prayer 2 in the application will not prejudice any of the parties. In the circumstances, it is ordered as follows:-

- a) Prayer 2 in the application dated **9th October, 2019** is granted.
- b) For non-attendance in court by the petitioners and their advocate, this application is NOT certified urgent.
- c) The petitioners are directed to properly serve the application upon the respondents.
- d) The application will be heard *inter partes* on **30th October, 2019**.
- e) Costs shall be in the cause.

Delivered in open Court at Chuka this 16th day of October, 2019 in the presence of:

CA: Ndegwa

Petitioners and their advocate absent

P. M. NJOROGE,

JUDGE.