

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 5 OF 2018

MADALINA WAMBUI MARETE.....1ST PLAINTIFF/RESPONDENT

JOSEPH MUCIJIA.....2ND PLAINTIFF/RESPONDENT

VERSUS

JULIUS KIGUTUDEFENDANT/APPLICANT

RULING

1. This ruling is on a notice of motion dated 14/1/2019 brought pursuant to provisions of section 1A, 1B, 3 & 3A of the Civil Procedure Act and all other enabling provisions of the law, where the applicant is seeking orders to have the inhibition lifted from the suit land, to have the plaintiffs evicted from the suit land and the OCS to provide security thereof, and an order of injunction restraining the plaintiffs and their agents from interfering with the applicants quiet possession of the suit land.

2. The application was based on the grounds on the face of it and the supporting affidavit of Julius Kigutu who averred that the suit against him was dismissed on 28th November 2018. He contends that he allowed the respondents, who are his siblings to use part of his land but have since abused his goodwill by filing a suit saying that he held the land in trust for them. He therefore asks that the respondents be evicted from the suit land and they be restrained from ever coming back and interfering with the land.

3. On 1.10.2019, the plaintiffs informed the court that they were aware of the application. However, they did not file a response to the same.

4. Section 24 of the Land Registration Act 2012 No. 3 of 2012 provides as follows:

“The registration of a person as the proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto.”

5. The applicant herein is the registered owner of Parcel No. NYAKI/KITHOKA/685 and according to the judgement passed on 28/11/2018 the plaintiffs were unable to prove trust. Therefore, the applicant is entitled to the protections provided in the Land Registration Act. Consequently, I allow the application dated 14.1.2019 with costs to applicant/defendant.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 27TH NOVEMBER, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Mutuma J. for defendant/applicant

Respondent in person

Applicant

HON. LUCY. N. MBUGUA

ELC JUDGE