



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 225 OF 2017 (OS)

IN THE MATTER OF LAND PARCEL NUMBER THARAKA/TUNYAI “A”/390

AND

**IN THE MATTER OF SECTIONS 7, 37 AND 38 OF THE LIMITATION OF ACTIONS ACT
AND ORDER 37 RULE 8 OF THE REGISTERED LAND ACT**

BETWEEN

JAMES MUTUGI MWITHI.....PLAINTIFF

VERSUS

DANIEL MUGO MWANGI.....DEFENDANT

RULING

1. This application concerns 2 applications both dated 28.12.2017. The first one seeks orders:

1. That an inhibition order do issue inhibiting the registration of any dealing with the piece of the land known as THARAKA/TUNYAI “A”/390 pending the hearing and final determination of this suit.

2. That the costs of this application be costs in the cause.

2. It has the following grounds;

1. The parcel of land in question is registered in the name of the defendant.

2. That my family and I have lived on this piece of land openly and quietly for more than 20 years without any interruption by the defendant.

3. That I have therefore acquired title to it by way of adverse possession.

4. That after being served with the papers in this case the defendant might dispose of it before the case is heard. And any other grounds contained in the affidavit of **JAMES MUTUGI MWITHI**.

3. The 2nd one seeks orders;

a. That the plaintiff/applicant be given leave to serve the Originating Summons in this case on the

defendant, Daniel Mugo Mwangi by advertising it once on the Daily Nation Newspaper.

b. That costs of this application be costs in the cause.

4. It has the following grounds:

1. This suit was filed on **5th April, 2017** by my advocates on my instructions.

2. Since filing the same I have made efforts to trace the defendant and have him served with the Originate (sic) Summons, but my efforts have been fruitless.

3. It is imperative that the Originating Summons must be served before this suit is heard, hence the necessity for the order sought.

5. Both applications are allowed with costs to be in the cause.

6. The plaintiff is granted 21 days to serve the defendant by way of substituted service.

7. Directions on **9.4.2018**.

Delivered in open court at Chuka this 13th day of February, 2018 in the presence of:

CA: Ndegwa

Kaai present for the plaintiff/applicant

P.M. NJOROGI,

JUDGE.