



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MURANG'A**

**ELC NO. 167 OF 2017**

**GRACE RUGURU MWANGI .....PLAINTIFF**

**VERSUS**

**FRANCIS MWANGI KANYURU.....1<sup>ST</sup> DEFENDANT**

**JOSEPH MWANGI MAINA.....2<sup>ND</sup> DEFENDANT**

**SIPHIRA WAMBUI NDAIRE.....3<sup>RD</sup> DEFENDANT**

**MARY WANGARI MAINA.....4<sup>TH</sup> DEFENDANT**

**CHIEF LAND REGISTRAR, MURANG'A .....5<sup>TH</sup> DEFENDANT**

**PETER MWANGI NJUGUNA.....INTENDED 6<sup>TH</sup> DEFENDANT**

**RULING**

1. This ruling arises out of the Notice of Motion dated 7/3/18 filed by the Plaintiff. In the application the Plaintiff has filed an affidavit in support alleging that the orders made by the Court on 23/2/18 are in danger of being enforced by the Defendants against her.
2. The Defendants have opposed the application. Both parties have filed written submissions which I have duly considered together with the rival affidavits filed.
3. The issue for determination is whether or not the orders made by the Court on 23/2/18 are capable of execution by the Defendants.
4. In the Ruling delivered on 23/2/18 the Court declined the Plaintiff's application dated 21/9/17. In the said application the Plaintiffs sought to add a 6<sup>th</sup> Defendant in this suit, namely Peter Mwangi Njuguna and an order for injunction to be issued against the said Peter Mwangi Njuguna. The reason for refusal to enjoin the said Peter Mwangi Njuguna and issue an injunction against him is because the Court on 25/2/16 stayed any proceedings in this suit until the previously instituted cases on the subject suit land are heard and determined.
5. As at the time of hearing the Plaintiff's present application there was no evidence that any or all of the suits previously instituted on the suit property involving the parties in this case had been dispensed with and the order made by the Court on 25/2/16 had not been varied stayed or set aside.
6. In view of the matters set out above it is not foreseeable that the Court on 23/2/18 made any order that is capable of execution or enforcement by the Defendants against the Plaintiff so as to entitle the Plaintiff to seek a stay of execution.
7. The Court finds that the application by the Plaintiff under consideration has no merit and is hereby dismissed with costs to the Defendants.

Orders accordingly

**DELIVERED, DATED AND SIGNED AT MURANG'A THIS 31<sup>ST</sup> DAY OF JULY, 2018.**

**J G KEMEI**

**JUDGE**

**Ruling read in open Court in the presence of;**

Mr Gichohi HB for Mr Njuki for the Plaintiff.

Mr Kinuthia HB for Mr Mbuthia for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants.

5<sup>th</sup> Defendant – N/A

Mr Kinuthia HB for Mr Mbuthia for the 6<sup>th</sup> Defendant.

Ms.Irene and Ms Njeri, Court Assistants.