



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

EMBU ELC CASE NO. 22 OF 2014

REUBEN KAMWOCERE.....PLAINTIFF

HENRY NJERU KINYUA.....INTERESTED PARTY

JULIAN WERUMA IRERI.....INTERESTED PARTY

IRENE MUTHONI MURITHI.....INTERESTED PARTY

VERSUS

HELLENA WAKINA MAURICIO.....DEFENDANT

RULING

1. This application is dated **6th August, 2018** and seeks orders:

1. That this (sic) be certified urgent and be heard ex-parte in the first instance pending the hearing of this application interparty.
2. That the Ruling order passed by this honourable court dated on 1st day of February, 2018 before Hon. Angima Judge be set aside and / or reviewed.
3. That this honourable court be pleased to grant order to protect or (sic) and the Embu Land Registrar to ensure that no further dealing are (sic) registered against Land No. Gaturi/Nembure/2548.
4. That there is no order as to costs.

2. The application has the following grounds:

- a) That the applicant enters (sic) to demonstrate (sic) against notice of motion dated on 30th day of May, 2017 and the Ruling delivered on 1st day of February, 2018.
- b) That the power (sic) of the notice of motion and the certificate of urgency is only to restrained (sic), protect review but not to cancel any registration of land.
- c) That only plaintiff can cancel the registration of land with reasons but not notice of motion with the certificate of urgency.
- d) That the advocate of Helena Wakina Mauricio is aware that section 1A and 3A and order 50 Rule 10 cannot cancel any title.
- e) That the advocate misleads (sic) this honourable court with his notice of motion with his certificate of urgency.

3. The application is supported by the affidavit of the applicants which states:

We, REUBEN KAMWOCERE, HENRY NJERU & 20OTHERS of Tende Village of P. O. Box 84 Runyenjes in the Republic of Kenya do hereby make oath and state as follows:-

a) That I am (sic) the applicant in this suit.

b) That the land No. Gaturi/Nembure/2548 was registered in the name of the applicant herein.

c) That the fact is notice of motion dated on 30th day of May, 2017 which was drawn and filed by the advocate was illegal.

d) That the said application was mistakenly filed because notice of motion and the certificate of urgency cannot cancel the registration of land.

e) That the applicants do hereby request this honourable court to set aside order delivered no 1st February, 2018 as per the ground set (sic) out this in application.

f) That I swear this affidavit in supporting (sic) of our application herein.

g) That what is deponed herein above is true to the best of my knowledge, information and belief.

4. Although the applicants have not come to court to prosecute this application, I do note that they are asking the judge in this court to set aside a ruling made by a judge who possesses horizontal jurisdiction and authority similar to that possessed by him. To do so would be rather unorthodox when the judge who made the apposite ruling is still available. The matter will be sent back to Embu so that the application can be handled by the Hon. Justice Angima.

5. The applicants are directed to serve the application upon the respondent.

6. It is directed that this application be heard interpartes at Embu on **4th September, 2018.**

7. It is so ordered.

Delivered in open court at Chuka this 8th day of August, 2018 in the presence of:

CA: Ndegwa

Parties not in court

P.M. NJOROGE

JUDGE