



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC PETITION NO. 6 OF 2018

**IN THE MATTER OF THE ALLEGED CONTRAVENTION OF
FUNDAMENTAL RIGHTS AND FREEDOMS UNDER
ARTICLE 40 OF THE CONSTITUTION OF KENYA 2010**

AND

**IN THE MATTER OF ARTICLE 22, 23 AND 165
OF THE CONSTITUTION OF KENYA 2010**

AND

**IN THE MATTER OF SECTIONS 26A, 27 AND 28 OF THE
LAND ADJUDICATION ACT CAP 284 LAWS OF KENYA**

AND

IN THE MATTER OF SECTIONS 24, 25 AND 26 OF THE LAND REGISTRATION ACT

AND

**IN THE MATTER OF SECTION OF THE LAND ACT NO. 6 OF 2012
AND IN THE MATTER OF ENVIRONMENT AND LAND ACT 2011**

BETWEEN

DAVID MAITAI RIMITA.....PETITIONER

AND

THE DISTRICT LAND ADJUDICATION AND SETTLEMENTS

OFFICER – TIGANIA EAST & WEST DISTRICTS.....1ST RESPONDENT

DIRECTOR OF LAND ADJUDICATION.....2ND RESPONDENT

CHIEF LAND REGISTRAR.....3RD RESPONDENT

AND

JOSPHAT MUTHAURA NKUBITO.....INTERESTED PARTY

RULING

1. This petition was filed contemporaneously with an application dated 23.7.2018 where the petitioner is seeking for the following orders:

(i) That this honourable court be pleased to issue an order of temporary injunction restraining the 1st, 2nd, 3rd and 4th Respondents, by themselves, their employees, juniors, officers, agents, servants, representative and/or anybody else whomsoever acting for and/or on their behalf from continuing with and/or carrying out any dealings in the respondent's land Registration No. URINGU/1248, be it adjudication, subdivision, transfer or any other acts of interference pending inter-partes hearing of this application and the Petition.

(ii) That this honourable court be pleased to issue conservatory orders stopping the 1st, 2nd, 3rd and/or 4th respondents by themselves, their employees, juniors, officers, agents, servants representative and/or anybody else whomsoever acting for/or on their behalf continuing with or carrying out any dealings in the respondent's land registration No. Uringu 1248 be it adjudication, subdivision, transfer or any other acts of interference, pending inter-partes hearing of this application and the Petition.

(iii) That this honourable court be pleased to issue an order of temporary injunction restraining the interested party by himself, his agents, relatives, employees and/or through anybody else whomsoever acting on his behalf from entering, selling, transferring, depositing building materials or carrying out any acts of interference whatsoever in the respondent's Land registration No. URINGU/1248 pending the hearing of the application and the petition.

2. The petitioner has filed grounds in support of the application which are;

(i) That in or about the year 1992, land registration No. URINGU/1248 was rightfully recorded in the peittioner's name.

(ii) That when titles were issued, the said land had been registered in the name of Josphat Muthaura Nkubitu who was/is the second owner in the adjudication register, whereas the petitioner was/is the 4th and the current owner, in the adjudication register.

(iii) That the petitioner has even written to the Cabinet Secretary in an effort to have the registration of the said land rectified but the petitioner's effort has been futile as there has been no response at all from the cabinet secretary.

(iv) That the petitioner now stands a great risk of losing the said land to the Interested Party.

(v) That it is in the interest of justice and fairness that this application be allowed.

(vi) That the respondents will not suffer any prejudice if the prayers sought herein are granted.

3. The application was served upon the other parties but no response has been filed.

4. The application is unopposed. I allow the same, but the orders given herein are **to remain in force for a period of 8 (eight) months.**

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 17TH DAY OF OCTOBER, 2018

IN THE PRESENCE OF:-

Court Assistant: Janet

Ngunjiri for petitioner

HON. LUCY. N. MBUGUA

ELC JUDGE