



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MURANG'A

ELC NO. 7 OF 2018

LUCY WAIRIMU KIANDA.....1ST PLAINTIFF /RESPONDENT

JANE WAMBUI KIONGO.....2ND PLAINTIFF /RESPONDENT

NICHOLAS WAMAI NJUKI.....3RD PLAINTIFF /RESPONDENT

VS

ESTHER WANGARI JOSEPH.....1ST DEFENDANT/APPLICANT

PETER NGURE NJUKI.....2ND DEFENDANT/APPLICANT

HENRY KAHIGA MUCHOKI.....3RD DEFENDANT /APPLICANT

WILSON KURIA WAMAI.....4TH DEFENDANT/APPLICANT

JULIAH WANJERI NJOROGE.....5TH DEFENDANT/APPLICANT

RULING

1. This Ruling relates to the Notice of Motion filed by the Plaintiffs /Applicant (called Plaintiff) under certificate of urgency on the 30/1/2018 seeking the following orders;

a)Spent

b) That the Defendants herein Esther Wangari Joseph, Peter Ngure Njuki, Henry Kahiga Muchoki, Wilson Kuria Wamai and Julia Wanjeri Njoroje be restrained by injunction from either by themselves, their servants, agents, assignees or any persons claiming title through the Defendants or any of them from alienating, transferring, selling, disposing, using, charging, mortgaging, developing on or constructing on, trespassing on, entering upon, or in any manner whatsoever dealing with the suit property herein:-

-Loc.12/Sub-Loc 1/Gakira/T.551

-Loc.12/Sub-Loc 1/Gakira/T.552

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-Loc.12/Sub-Loc 1/Gakira/T.554

-Loc.12/Sub-Loc 1/Gakira/T.555

-Loc.12/Sub-Loc 1/1501

pending the hearing and determination of this application or until further orders of this Honourable Court.

c) That the Defendants herein Esther Wangari Joseph, Peter Ngure Njuki, Henry Kahiga Muchoki, Wilson Kuria Wamai and Julia Wanjeri Njoroje be restrained by injunction from either by themselves, their servants, agents, assignees or any persons claiming title through the Defendants or any of them from alienating, transferring, selling, disposing, using, charging, mortgaging, developing

on or constructing on, trespassing on, entering upon, or in any manner whatsoever dealing with the suit property herein:-

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-Loc.12/Sub-Loc 1/1501

pending the hearing and determination of this application or until further orders of this Honourable Court.

That the costs of this application be borne by the Defendants.

2. The application is premised on the grounds stated as below;

a) The Defendants have unlawfully and fraudulently transferred and partitioned the suit property from the name of a deceased person without letters of administration or certificate of confirmation of grant contrary to section 61 of the Land Registration Act, 2012.

b) The Defendants have fraudulently forged the signatures of the 1st and 2nd Plaintiff in transferring and partitioning some of the suit property.

c) The Defendants may dispose of the suit property to further perpetrate their illegal activities and it is therefore necessary to preserve the property pending the hearing of this application and the main suit.

d) Such further reasons to be given at the hearing of this application.

3. Vide a Replying Affidavit sworn by one Esther Wangari Joseph dated the 14/2/18 the Defendants are opposed to the application on grounds inter alia that the Plaintiffs have not taken out letters of administration for the estate of their deceased father one Joseph Njuki Michuki. Secondly that the case has been filed in the wrong fora.

4. Parties filed written submissions which I have carefully read and considered.

5. Going by the acknowledged case on granting injunctions of **Giella Vs Cassman Brown**, Order 40 rule 1 of the Civil Procedure Rules and section 63(e) of the Civil Procedure Act , am satisfied that the suit lands should be preserved pending the hearing and the determination of the suit. I therefore grant orders in terms of 3 of the Notice of Motion dated 30/1/2018.

6. I make no orders as to costs.

DELIVERED, DATED AND SIGNED AT MURANG'A THIS 15TH NOVEMBER DAY OF 2018.

J G KEMEI

JUDGE

Delivered in open Court in the presence of:

Advocate and Plaintiffs are absent

Mwangi Ben for the 1st – 5th Defendants Present

Irene and Njeri, Court Assistants