



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 01 OF 2017

FORMERLY MERU ELC CASE NO. 265 OF 2016

JENIFFER MUTHIO MWENDWA.....1ST PLAINTIFF

CLINTON KIMATHI MWANZEA.....2ND PLAINTIFF

NEWTON KINYUA KARUKU.....3RD PLAINTIFF

KENNETH MUSYOKA STEPHEN4TH PLAINTIFF

VERSUS

JACKSON MUTHAMIA NYAGA ALIAS MUTHENGI NYAGA.....DEFENDANT

RULING

1. This application is dated 30.11.2016 and seeks orders:

1. That the honourable court be pleased to certify this application most urgent and the same be heard exparte in the first instance.

2. That the honourable court be pleased to issue orders of inhibition over all that parcel of land known as **MAGUMONI/MUKUUNI/2806, 2807 and 2808** pending interparties hearing of this application.

3. That this honourable court be pleased to issue order of inhibition over all that parcel of land known as **MAGUMONI/MUKUUNI/2806, 2807 and 2808** pending the hearing and determination of this suit.

4. That this honourable court be pleased to issue an order of temporary injunction against the Respondent/Defendant his servants agents, employees, successors in title or anybody acting at his behalf or behest from encroaching, evicting and or interfering with the applicants occupation, user, business or in any other manner dealing with the proprietary interests of parcel No. **MAGUMONI/MUKUUNI/2806, 2807 and 2808** pending the hearing of this application or pending further orders of this court.

5. That this honourable court be pleased to issue an order of temporary injunction against the Respondent/Defendant his servants agents, employees, successors in title or anybody acting at his behalf or behest from encroaching, evicting and or interfering with the applicants occupation, user, business or in any other manner dealing with the proprietary interests of parcel No.

MAGUMONI/MUKUUNI/2806, 2807 and 2808 pending the hearing and determination of this suit.

2. The application is supported by the affidavit of **JENIFFER MUTHIO MWENDWA** and has the following grounds:

i) That the 1st applicant is the step mother of the respondent while the 2nd, 3rd and 4th respondents are nephews of the respondent and all occupy land parcels No's **MAGUMONI/MUKUUNI/2806, 2807 and 2808** which are a resultant subdivision of the original L.R NO.**MAGUMONI/MUKUUNI/464**.

ii) That the respondent was registered as the holder of land REG NO.**MAGUMONI/MUKUUNI/464** on the 21st February, 1966 to hold as a trustee being the eldest son of **Nyaga Mwendwa** for all his siblings, stepmother and other family members.

iii) That in utter breach of that trust bestowed on the respondent/defendant he has threatened to alienate to third parties land parcels REG NO's **MAGUMONI/MUKUUNI/2806, 2807 and 2808**.

iv) That 1st, 2nd, 3rd and 4th applicants and their family have no alternative land parcel to settle on or to derive their livelihood and will therefore suffer irreparably if the suit land are alienated.

v) That it is therefore imperative for this court to grant conservatory orders of inhibition to avoid any improper dealings in respect of the family land.

3. The application was heard on 7.3.2017 when Mr Kaimenyi for the plaintiff asked the court to allow the application as it was not opposed.

4. Mr Muriithi for the defendant told the court that prayer 3 for inhibition could be confirmed so that the parties too could move to the hearing of the main suit.

5. I have considered the submissions proffered by the parties.

6. The application is allowed in terms of prayers 3 and 6.

7. The plaintiffs should fully comply with order 11, CPR, within 14 days of today and the plaintiff should do so within 14 days after receipt of the plaintiffs' compliance documents.

8. Costs shall be in the cause.

9. It is so ordered.

10. Directions on 10.4.2017.

Delivered in open court at Chuka this 7th day of March, 2017 in the presence of:

CA: Ndegwa

Kaimenyi for the plaintiffs

Muriithi for the defendant

P. M. NJOROGE

JUDGE