



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 09 OF 2017

FORMERLY MERU CIVIL APPEAL NO. 27 OF 2016

NICHOLUS MUNENE MURITHI.....APPELLANT

VERSUS

LIDYA KAGENI NJOKA.....RESPONDENT

EVANS GITONGA BORANA.....INTERESTED PARTY

RULING

1. This application is dated 27th July, 2016 and seeks orders:

1. That this application be certified as very urgent and the same be heard as a matter of priority.
2. That the honourable court be pleased to order stay of execution of the judgment and decree dated 29th June, 2016 pending the hearing and determination of this application.
3. That this honourable court be pleased to allow the applicant herein to enjoin one **EVANS GITONGA BORANA** as an interested party.
4. That this honourable court be pleased to issue an order of inhibition restricting any kind of dealings over LR NO.2158 **KARINGANI/MUGIRIRWA** for purposes of preserving the suit parcel pending the hearing and determination of this matter.
5. That the honourable court be pleased to order stay of execution of the judgment and decree dated 29th June, 2016 pending the hearing and determination of this appeal.
6. That costs for and incidental to this application be borne by the respondent.

2. The application is supported by the supporting affidavit of **NICHOLAS MUNENE MURITHI** and has the following grounds:

- i) That if the stay is not granted, the appellant shall be evicted rendering (sic) the appeal nugatory and useless.
- ii) That the respondent shall not suffer any prejudice since the appellant has occupied **L.R. No.2158 KARINGANI/MUGIRIRWA** for well (sic) since he was born.

iii) That I am an orphan who is striving for survival and my aunt the respondent herein and my uncle **EVANS GITONGA BORANA** have planned to deprive me of my rights.

iv) That the appellant will suffer irreparable harm and damage if the stay is not granted as he will be evicted from his land before he exhausts all legal avenues.

3. The parties have agreed that:-

i) An order of inhibition be registered against **KARINGANI/MUGIRIRWA/3681** for preservation of the subject matter.

ii) This agreement is adopted as an order of this court.

4. The appellant is directed to have an inhibition placed against **Land No.3681 KARINGANI/MUGIRIRWA.**

5. The applicant has not canvassed prayer 2. It is dismissed.

6. Prayers 3, 4 and 6 are dismissed.

7. Costs shall be in the cause.

8. It is so ordered.

9. Parties encouraged to effect transfer of **0.12 Hectares** within **30 days** to the appellant by **DAVID KINYUA** as ordered by the Judgment of **Hon. A.G. Kiburu, SPM, on 29.6.2016.**

10. Directions on 6.4.2017.

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

CA: Ndegwa

Nicholas Munene for the Appellant

Njeru Ithiga for the Respondent

P.M NJOROGE

JUDG