



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA ELC CASE NO 190 OF 2017**

**CHARITY GERRARD.....PLAINTIFF**

**VERSUS**

**GERRARD KIBAARA NATHAN.....1<sup>ST</sup> DEFENDANT**

**JOHN MBABU ALFRED.....2<sup>ND</sup> DEFENDANT**

**ROSEMARY KAIRUTHI MBAE.....3<sup>RD</sup> DEFENDANT**

**RULING**

1. This application is dated 1.3.2017 and seeks orders:

1. That this Honourable Court be pleased to certify this application urgent owing to its urgent nature, hear the same exparte in the first instance and issue orders accordingly.

2. That this Honourable court be pleased to issue temporary orders of injunction restraining the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents/defendants whether by themselves, their agents, assigns, servants, employees or anyone acting on their behest from disposing off, selling or transferring and or in whichever way from dealing with land parcel number MWIMBI/MURUGI/3715 pending the hearing and determination of this application interparties.

3. That this Honourable court be pleased to issue temporary orders of injunction restraining the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents/defendants whether by themselves, their agents, assigns, servants, employees or anyone acting on their behest from disposing off, selling or transferring and or in whichever way from dealing with land parcel number MWIMBI/MURUGI/3715 pending the hearing and determination of this suit.

4. That this Honourable Court be pleased to issue a temporary order of injunction restraining the 2<sup>nd</sup> and 3<sup>rd</sup> respondents/defendants, whether by themselves, their agents, assigns, servants, employees or anyone acting on their behest from trespassing, entering, remaining therein, fencing, cultivating and / or in whichever manner dealing with any part of land parcel number MWIMBI/MURUGI/3715 pending the hearing and determination of this suit.

5. That this Honourable Court be pleased to issue a temporary order of injunction restraining the 2<sup>nd</sup> and 3<sup>rd</sup> respondents/defendants, whether by themselves, their agents, assigns, servants, employees or anyone acting on their behest from trespassing, entering, remaining therein, fencing, cultivating and / or in whichever manner dealing with any part of land parcel number

MWIMBI/MURUGI/3715 pending the hearing of this application interparties.

6. That this Honourable Court be pleased to issue an order of inhibition against land parcel number MWIMBI/MURUGI/3715 pending the hearing and determination of this application interparties and thereafter until the further orders of this Honourable court.

7. That the order be issued by the Honourable Court herein be served upon the OCS Chuka Police Station to ensure compliance.

8. That costs of this application be provide for.

2. The application is supported by the affidavit of CHARITY GERRARD sworn on 1<sup>st</sup> March, 2017 and has the following grounds:-

1. That the suit land is a matrimonial property where the parties herein have lived and developed since 1965's.

2. That however, the 1<sup>st</sup> defendant transferred land LR No. MWIMBI/MURUGI/3715 to 2<sup>nd</sup> and 3<sup>rd</sup> defendant (sic).

3. That the suit parcel is ancestral land and matrimonial property having inherited (sic) from their father.

4. That for the interest of justice the applicant is apprehensive that the 2<sup>nd</sup> and 3<sup>rd</sup> respondents might further dispose off the suit land to 3<sup>rd</sup> parties thereby complicating the issues further.

5. That on various occasions the respondents have threatened to evict the applicant from the suit land which forms part of matrimonial land.

6. That it is just and fair that the plaintiff/applicant be granted orders sought herein to preserve her rights and interest over the suit land.

7. That unless the orders sought herein are granted, the plaintiff/applicant stands to suffer irreparable loss.

8. That its (sic) only just and fair that the orders sought herein by the plaintiff/applicants be allowed.

3. On 5.4.2017 during directions, the parties proffered a consent dated 5.4.2017 for adoption by the court which is in the following terms:

**By consent of both parties it is hereby agreed as follows:**

1. That an order of temporary injunction is hereby issued restraining the 2<sup>nd</sup> and 3<sup>rd</sup> respondents/defendants, whether by themselves, their agents, assigns, servants, employees or anyone acting on their behest from trespassing, entering, remaining therein fencing, cultivating and / or in whichever manner dealing with parcel of land number MWIMBI/MURUGI/3715 pending the hearing and determination of this suit.

2. That an order of inhibition is hereby issued to be registered against land parcel number MWIMBI/MURUGI/3715 pending the hearing and determination of this suit.

3. That costs of this application be in the cause.

4. The consent is properly signed by the advocates representing the parties.

5. The consent is adopted as an order of this court.

6. The application dated 1<sup>st</sup> March, 2017 is deemed heard and determined.

7. It is so ordered.

Delivered in open court at Chuka this 5<sup>th</sup> day of April, 2017 in the presence of:

CA: Ndegwa

Kijaru for the plaintiff/applicant

Mark Muriithi h/b I.C Mugo for the defendants.

**P. M. NJOROGE,**

**JUDGE.**