



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT OF KENYA AT CHUKA

CHUKA ELC CASE NO 209 OF 2017

CANISIO MICHENI THAMBO.....PLAINTIFF

VERSUS

DOMISIANO MURUNGI THAMBO.....1ST DEFENDANT

GENESIO MWENDA MURUNGI.....2ND DEFENDANT

DORIS WANJA MURUNGI.....3RD DEFENDANT

NANCY KAARI MURUNGI.....4TH DEFENDANT

PAMELA GAKII MURUNGI.....5TH DEFENDANT

RULING

1. This application is dated **9th October, 2017** and seeks orders:

1. That this application be certified as urgent

2. That the honourable court be pleased to issue order of inhibition restraining any kind of dealings in land parcel MWIMBI/CENTRAL MAGUTUNI/227 pending the hearing of this application.

3. That the honourable court be pleased to issue order of inhibition restraining any kind of dealings in land parcel MWIMBI/CENTRAL MAGUTUNI/227 pending the hearing and determination of this suit.

4. That cost of this application be provided for.

2. The application has the following grounds:

1. That the defendants are threatening to evict the plaintiff and sell the suit land.

2. That the plaintiff children as well as the defendants live on the said parcel.

3. That if the plaintiff is evicted from the suit land he has been in possession and occupation for all his life he stands to be rendered destitute and suffer great loss and damage.

4. That the defendants would not be prejudiced by the said order.

5. That it is only just and fair that this parcel be protected.

3. The application is buttressed by the affidavit of the plaintiff, CANISIO MICHENI THAMBO and which affidavit states as follows:

1. That I am the plaintiff/applicant herein well versed with the fact of this matter and therefore competent to make and swear this affidavit.

2. That land parcel MWIMBI/CENTRAL MAGUTUNI/227 was bequeathed to the 1st defendant/respondent by our late father to hold in trust for me in believe that he would transfer half share of it when he grew of age.

3. That 1st respondent is my elder brother and we have been living harmoniously on the suit parcel for over 30 years.

4. That in the year 2016 I started demanding my share of the suit parcel from the 1st defendant by asking him to subdivide the same.

5. That I made a complaint to members of the clan that is KITHAKI CLAN who held a meeting and demanded that the 1st defendant to transfer half share of the suit parcel tome (Annexed and marked PK 1 is a letter from Chairman KITHAKA CLAN).

6. That after intense pressure from the clan members the 1st defendant secretly transferred LR NO. MWIMBI/CENTRAL MAGUTUNI/227 to his children the 2nd to 5th defendant/respondents herein and told me that he has no land to transfer tome (Annexed and marked PK2 is a copy of green card).

7. That the 1st defendants children are now seeking to evict me and my children claiming to be the registered owners of land with an aim of disposing off the said parcel.

8. That if am evicted from the said parcel I will end landless hence the need for courts intervention.

9. That it is only fair, just and equitable that it is honourable court do allow this application for the purpose of preserving the suit land.

10. That what is deponed to herein is true to the best of my knowledge, information and belief.

4. The certificate of urgency tells the court that the defendants are threatening to sell land parcel NO. MWIMBI/CENTRAL MAGUTUNI/227 and that unless they are stopped from doing so by an order of inhibition, this suit will be rendered nugatory.

5. I find that prayer 2 in the application is meritorious at this ex-parte stage.

6. In the circumstances, prayer 2 is granted.

7. Costs shall be in the cause.

8. The application will be heard interpartes on 19.10.107

9. It is so ordered.

Delivered in open court at Chuka this 11th day of October, 2017

in the presence of:

CA: Ndegwa

Igweta for the applicant

P.M. NJORGE

JUDGE