



**REPUBLIC OF KENYA**

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

**CHUKA ELC MISCELLANEOUS CIVIL CASE NO 17 OF 2017**

**FORMERLY CHUKA CM'S COURT MISC CIVIL CASE NO. 7/2016**

ELIPHAS NJUE.....PLAINTIFF

VERSUS

BEDFORD MUGENDI NJUE.....DEFENDANT

**RULING**

1. This application which is dated 30.5.2016 seeks the following orders:

1. That this honourable court be pleased to lift all the encumbrances on land parcel LR: MWIMBI/MURUGI/721.
2. That the land registrar Meru-South be served with the orders herewith for compliance.
3. That cost of this application be provided for.

2. The application has the following grounds:

- a. That the applicant is the registered owner of Land LR: Mwimbi/Murugi/721.
- b. That on or around the year 1990 the respondent obtained an inhibitory order against the suit parcel prohibiting any dealings vide Meru High Court Civil Suit No. 1 of 1990 until the said suit was determined.
- c. That the respondent failed and/or refused to pursue the case and the same was dismissed for want of prosecution.
- d. That after dismissal of the suit, the applicant went to court to have the inhibitions lifted but the said file could not be traced and up to date the said file is still missing.
- e. That after dismissal of the suit on 24<sup>th</sup> November, 2010 the respondent lodged a caution against the suit parcel.
- f. That the respondent has never sued the applicant in any court to claim his interests over land parcel LR:MWIMBI/MURUGI/721 consequently the said caution is illegal.
- g. That by reason of the foregoing the honourable court should be pleased to lift all the

encumbrances on land parcel LR:MWIMBI/MURUGI/721.

h. That an encumbrance cannot be lodged forever but for a stipulated period of time.

i. That land registrar Meru-South should be served with the orders herewith for compliance.

j. That the applicant will suffer irreparably if the orders sought are not granted.

3. I find that the orders sought in the application can be canvassed in the CM's Court at Chuka. It is ordered as follows:

This suit is transferred to the Chuka CM's Court for hearing and determination.

Delivered in open court at Chuka this **6<sup>th</sup> day of December, 2017** in the presence of:

CA: Ndegwa

Parties absent

**P.M. NJORGE**

**JUDGE**