



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ORIGINATING SUMMONS NO. 101 OF 2016
IN THE MATTER OF L.R NOS. NYAKI/MUNITHU/1480 & 1481

AND

IN THE MATTER OF THE LAND REGISTRATION ACT

AND

IN THE MATTER OF THE LIMITATION OF ACTIONS ACT

PAUL MWENDA M'INOTI (Suing in his capacity as administrator

ad litem of the estate of HELLEN KARAMBU M'INOTI

DECEASED.....PLAINTIFF/APPLICANT

VERSUS

PETER KIRIMA IMATHIU.....DEFENDANT/RESPONDENT

R U L I N G

1. This application is dated 18th July, 2016 and seeks orders:-

1) ***THAT*** this application be certified urgent and heard ex-parte in the first instance on account of its urgency.

2) ***THAT*** this Honourable Court be pleased to grant an Order of Temporary Injunction restraining the Defendant by himself, his agents, employees, servants, assigns or any other person acting on his behest from evicting or in any other way interfering with the Applicants' right of user and occupation of the Property Title Number NYAKI/MUNITHUU/1480 & 1481 pending the hearing and determination of this Application or further orders of Court.

3) ***THAT*** this Honourable Court be pleased to grant an Order of Temporary Injunction restraining the Defendant by himself, his agents, employees, servants assigns or any other people acting on their behest from transferring, selling, evicting or in any other way interfering with the Applicant;s right of user and occupation of Property Title Number NYAKI/MUNITHU/1480 & 1481 pending the hearing and determination of this suit.

4) ***THAT*** an order of inhibition be issued inhibiting any dealings in property Title Number NYAKI/MUNITHU/1480 & 1481 pending the hearing and determination of this application

and/or until this suit is heard and determined.

5) THAT the costs of this Application be provided for.

2. The application is supported by the affidavit of PAUL MWENDA M'INOTI and has the following grounds:-

(a) The Deceased and her beneficiaries have been for more than 12 years, without the permission of the Respondents, in exclusive, actual, open and uninterrupted possession of the Property Title Numbers NYAKI/MUNITHU/1480 & 1481 and her estate has acquired beneficial interest under the doctrine of adverse possession.

(b) The Deceased made substantial developments on the Land including but not limited to putting up a permanent housing structure and growing crops thereon including maize, pepper, beans avocado and griveria trees since 1993.

(c) The Deceased 's heirs and beneficiaries will suffer irreparable loss and damages if they are evicted from the land or if the land is sold off and they thus lose the rights they have acquired over it.

(d) It is only fair and equitable to preserve the suit land to enable the Applicant to ventilate his cause on behalf of the estate of the Deceased.

3. The Application was to be heard interpartes on 27.07.2016 but despite service, the Defendant was absent. Advocate Nyauchi, for the Plaintiff, asked the Court to allow the application because it was not opposed.

4. The The following orders were issued:-

(1) Application is allowed in terms of Prayer 4 only.

(2) Plaintiff to fully comply with Order 11, CPR, within 60 days and serve all compliance documents upon the Defendant/Respondent who is not present in Court.

(3) Upon achievement of Compliance, parties to obtain a mutually convenient date for hearing of the suit from the Registry .

(4) Costs shall be in the cause.

(5) It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 27TH DAY OF JULY, 2016 IN THE PRESENCE OF:

CC: Lilian/Daniel

Nyauchi for the Plaintiff /Applicant

Defendant absent

P.M. NJOROGE

JUDGE