



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**ELC SUIT NO . 220 OF 2016**

KOOME SAMUEL MWIRARIA.....PLAINTIFF

VERSUS

NICKSON MUGAMBI RUCHA .....DEFENDANT

**RULING**

1. This application is dated 09/11/2016. It seeks orders:-

***1. THAT this Honourable Court be pleased to certify this application as urgent and dispense with service in the first instance.***

***2. THAT this Honourable Court be pleased to make an inhibition order restraining and prohibiting the registration of any dealings in respect of land parcel numbers Karingani/Ndagani/10455, 10456, 10459, 10460, 10461 pending the hearing and determination of this application.***

***3. THAT This Honourable Court be pleased to make an inhibition order restraining and prohibiting the registration of any dealings in respect of land parcel numbers Karingani/Ndagani/ 10455, 10456, 10459, 10460, 10461 pending the hearing and determination of this suit.***

***4. THAT this Honourable Court be pleased to grant an order of temporary injunction to restrain the defendant, his agents, family members, servants or anyone acting at his behalf from entering, selling, alienating, developing, leasing or in any other manner otherwise interfering with Land parcel numbers Karingani/Ndagani/ 10455, 10456, 10459, 10460, and 10461 pending the hearing and determination of this application.***

***5. THAT this Honourable Court be pleased to grant an order of temporary injunction to restrain the defendant, his agents, family members, servants or anyone acting at his behalf from entering, selling, alienating , developing, leasing or in any other manner otherwise interfering with Land Parcel numbers Karingani/Ndagani/ 10455, 10456, 10459, 10460, and 10461 pending the hearing and determination of this suit.***

2. The application is supported by the affidavit of KOOME SAMUEL MWIRARIA and has the following grounds:-

***(a) That in or about year 2013 an agreement was entered between DAUDI MWIRARIA and NICKSON MUGAMBI RUCHA for the purchase of land parcel number Karingani/Ndangani/6281 which measured approximately 0.80 Hectares or 2 acres from one***

**JUSTUS NTWIGA NTIBA.**

***(b) That contrary and in breach of the agreement NICKSON MUGAMBI RUCHA had the entire parcel No. Karingani/Ndagani/6281 registered in his name and thereafter he proceeded to subdivide the said two acre parcel of land into nine new parcels to wit Karingani/Ndagani/10453, 10454, 10455, 10456, 10457, 10458, 10459, 10460 and 10461.***

***(c) That Nickson Mugambi Rucha proceeded to sell and/or transfer 4 of the subdivisions I.e Karingani/ Ndagani/10453,10454,10457 and 10458 to one Felix Kamundi Njeru who subsequently charged the said properties to Equity Bank Ltd.***

***(d) That on 3rd December, 2014 DAUDI MWIRARIA who had a half (50%) share in the original property Karingani/Ndagani. 6281 transferred his share to his son KOOME SAMUEL MWIRARIA.***

***(e) That unless the defendant is restrained he will proceed to sell, alienate or otherwise dispose off the remaining five unencumbered parcels of land.***

***(f) That there is a real risk that the defendant will indeed transfer to third parties or charge the remaining parcels of land and the plaintiff who has an interest therein will be fraudulently deprived of the same.***

***(9) That despite making attempts to place cautions over the remaining parcel of land the Land Registrar Chuka has declined to do so and grant of an inhibition order by this Court is the sole remaining avenue available to secure the plaintiffs interest in the properties.***

***(h) That the whole purpose and intent of this suit would be rendered nugatory if inhibition orders are granted pending the hearing and determination of this application and suit.***

***(i) That no prejudice will be occasioned upon the defendant if inhibition and/or preservative orders are granted pending the hearing and determination of this application and suit.***

3. During interpartes hearing, Mr. Frank Gitonga, the applicant's Advocate told the Court that the respondent had 10 days to respond to the application but he had not done so.

4. I agree that for an application, 10 days is enough time for a respondent to file a Replying Affidavit to enable the relevant application to be heard interpartes.

5. Having perused the pleadings proffered by the applicant, I find that the application is meritorious.

6. I deny the respondent's prayer for more time to be given to him so that he can respond to the application.

7. In the circumstances, the application is allowed in terms of prayers 3 and 5

8. Costs shall be in the cause.

9. It is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 13TH DAY OF DECEMBER, 2016 IN THE PRESENCE OF:-**

CC: Daniel/James

Frank Gitonga for the Plaintiff

Ashava h/b D.J. Mbaya for the Defendant

**P.M. NJORGE**

**JUDGE**