



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA

ELC CASE NO. 70 OF 2016

DOMINIC NJERU NYAGA

LEONARD KARIUKI NYAGA

PATRICK KITHAKA NYAGA (Suing as the

personal representative of the

Estate of CHELESTINO NYAGA GICHONI.....APPLICANTS

VERSUS

THE ESTATE OF KARINGA NJERU.....RESPONDENTS

RULING

The plaintiff/applicant filed this suit on 9th November 2016 seeking the two main prayers:-

- 1. A declaration that the land parcel known as EMBU/MAVURIA/1422 forms part of the Estate of CHELESTINO NYAGA deceased.***
- 2. A permanent injunction restraining the defendant or their servants, agents or personal representatives from doing any of the following acts that is to say; claiming ownership and/or title or in any way interfering with applicant's ownership, occupation, possession and use of the property EMBU/MAVURIA/1422.***

Simultaneously with the filing of that suit, the plaintiff/applicant filed a Notice of Motion seeking the following substantive orders:-

(a) Spent.

(b) Spent.

(c) Spent.

(d) That pending the hearing and determination of this suit, the defendant/respondent or their agents or servants or any of them be restrained by a temporary injunction from evicting the plaintiff/applicants from the suit premises or otherwise interfering with the plaintiff/applicants ownership and possession of or in any way adversely dealing with the suit property.

(e) That costs of the application be in the cause.

When the application was placed before me on 22nd November 2016, I directed that it be served upon the defendant/respondents having certified it urgent. It was then listed for inter-parte hearing on 8th December 2016.

On 8th December 2016, counsel for the plaintiff/applicant informed the Court that the same had been served on the advocate for the defendant/respondents but there was no replying affidavit or any grounds of opposition thereto and service had been acknowledged.

Upon hearing the counsel for the plaintiff/applicant on the Notice of Motion dated 7th November 2016 and filed herein on 9th November 2016 and as there is no replying affidavit or any grounds of opposition filed in response thereto, I grant the orders as sought in paragraph (d) of the said Notice of Motion with costs being in the cause. The plaintiff to comply with other pre-trial directions and have the suit listed for hearing and determination in the next twelve (12) months.

It is so ordered.

B.N. OLAO

JUDGE

8TH DECEMBER, 2016

Ruling dated, delivered and signed in open Court this 8th day of December 2016.

Mr. Muriuki for Plaintiff/Applicant present.

B.N. OLAO

JUDGE

8TH DECEMBER, 2016