



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

MILIMANI LAW COURTS

ELC NO. 234 OF 2015

JOSEPH NDOLO MUENDO.....PLAINTIFF/APPLICANT

=VERSUS=

WANJIKU KINYORO..... 1ST DEFENDANT/RESPONDENT

UMAGARA WIYONERE CO. LTD.....2ND DEFENDANT/RESPONDENT

RULING

The Plaintiff in his application dated **18th March 2015**, seeks an order that the Defendants be restrained from wasting, destroying, alienating, selling, altering, transferring, or interfering with **Plot No. 1131 in LR 8469/9**, pending the hearing and determination of the suit. The application is premised on grounds outlined thereunder and supported by an affidavit sworn by the Plaintiff.

The Plaintiff's case is that he is the lawful owner of **Plot No. 1131 in LR 8469/9**, having acquired it through purchase from one **Thomas Mongare Ombonyo** vide a sale agreement dated **12th July 1999**. Upon payment of the requisite registration, transfer and purchase fees, he was issued with a Certificate of Ownership for the said plot on **20th February 1999**. It was his deposition that between **3rd and 8th March 2015**, the Defendants entered into his plot, demolished and destroyed everything thereon and commenced the construction of a wall around the plot. The Plaintiff urged the court to grant the orders of injunction pending the determination of the case to avert any further loss and damage on the suit plot.

Thomas Mongare Obonyo, swore an affidavit on **15th May 2015**, in support of the Plaintiff's case wherein he deposed that he was the original allottee of **Plot No. 1131**, from the 2nd Defendant. He completed payment of the purchase price and other requisite fees on **17th February 1999**, and was issued with a Plot Certificate. It was his deposition that he remained in actual possession thereof until **July 1999**, when he sold it to the Plaintiff. Upon receipt of the purchase price, the 2nd Defendant issued the Plaintiff a new Plot Certificate.

The 1st Defendant swore a Replying Affidavit in opposition to the application wherein she deposed that she has the authority to act on behalf of her sister, **Sophia Wanjiru Mukuria**, by virtue of a general power of attorney executed on **31st July 2001**. It was her disposition that her sister purchased **Plot No. 54 within LR 8469/4, Kasarani** from one **Esther Nyokabi Kimani** on **3rd January 1991**. Upon payment of the requisite fees, they were issued with a Plot Certificate on **10th January 1991**, where after they took possession thereof. The 1st Defendant denied the allegation of trespass and urged the court to dismiss the

None attendance for the 2nd Defendant }

Vincent : Court Clerk

Court:

Ruling read in open Court in the absence of the respective advocates though notified.

L. GACHERU

JUDGE