



REPUBLIC OF KENYA
IN THE ENVIRONMENT & LAND COURT

AT MERU

CIVIL APPEAL NO 18 OF 2015

OBADIAH MWITI LABAN.....1ST APPELLANT/APPLICANT

MARY RIMAA M'MUGAMBI.....2ND APPELLANT/APPLICANT

VERSUS

CAROLINE NDUMBA FRANCIS.....RESPONDENT

RULING

This application is dated 22nd May, 2015 and seeks Orders that:-

- 1. The application be certified urgent and in view of its urgency, the same be admitted to hearing on priority basis and ex parte in the first instance.*
- 2. The Honourable Court be pleased to call for the original record of proceedings in Nkubu P.M.C.C No. 33 of 2014.*
- 3. The Honourable Court be pleased to stay implementation and or operation of the temporary Orders of injunction and inhibition made by the Honourable Senior Resident Magistrate in Nkubu Principal Magistrate's Civil case No.33 of 2014 and any proceedings therein pending hearing and determination of the application inter partes.*
- 4. The Honourable Court be pleased to stay implementation and or operation of the temporary Orders of Injunction and Inhibition made by the Honourable Senior Resident Magistrate Nkubu in Principal Magistrate's Civil Case No.33 of 2014 and any further proceedings pending hearing and determination of the Civil Appeal No.18 of 2015 pending before the E & L Court at Meru.*

IN THE ALTERNATIVE

- 5. Costs of the motion be paid to the applicants/appellants by the respondent.*
- 6. The Honourable Court be pleased to altogether , set aside, vary and or discharge the orders made by the Honourable Senior Resident Magistrate-Nkubu on 13th May, 2015 in Nkubu Principal Magistrate's Civil case No. 33 of 2014.*

The application is supported by the affidavit of Mary Rimaa M'Mugambi and has the following

grounds:-

a. That the appellant's/applicant's appeal herein is arguable and has overwhelming chances of success.

b. That substantial loss is likely to occur to the appellants/applicants unless the Orders sought herein are made.

c. That the 2nd applicant/appellant is at the verge of being evicted from her land pursuant to the orders granted forthwith.

d. That the appellants'/applicants' otherwise promising appeal and indeed their instant application are likely to be rendered nugatory and useless unless the orders pleaded for herein are immediately granted.

e. That it is the interest of justice that the orders sought be granted.

I have perused the pleadings and the submissions filed by the parties. I have come to the conclusion that the Orders issued by the Learned Senior Resident Magistrate's Civil case No. 33 of 214 are meant to preserve the suit property pending hearing and determination of the apposite suit. In the circumstances, I dismiss the Appellants/Applicants application dated 22nd May, 2015.

Costs shall be in the cause.

Delivered in open Court at Meru this **1st day of July, 2015** in the presence of:

CC: Daniel/Lilian

Kiogora h/b Ndubi for Appellants /Applicants

Carl peters Mbaabu for Respondent.

P.M. NJOROGE

JUDGE