



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT NAKURU**

**ELC NO 207 OF 2014**

**PETER MWANGI NJOROGE.....PLAINTIFF**

**VERSUS**

**ELIZABETH NYAGUTHIE KARIUI & 18 OTHERS....DEFENDANTS**

**RULING**

***(Application for injunction; plaintiff pleading that his father bought him some land but when he went to process title, discovered that 1st defendant had obtained title and had subdivided land and sold it to the other defendants; evidence of purchase demonstrated by plaintiff; prima facie case established; application allowed)***

1. This suit was commenced by way of plaint filed on 18 July 2014. The case of the plaintiff is that his father, Njoroge Mungethu, between the years 1973 and 1979, purchased 4 shares in Mirera Suswa Farmers Company Limited, which I presume to be a land buying company. The said Mungethu purchased these four shares for the benefit of himself, his wife, his daughter one Margaret Nduta, and his son, the plaintiff, with each person to get one share. At the time of purchase, the plaintiff and his sister were young and they had to wait to attain the age of majority before processing their title deeds. The plaintiff's share was the land parcel Naivasha/Mwiciringi Block 4/2443. When the plaintiff became grown up and went to the Lands office to procure his title deed, he found that the 1st defendant had obtained title and had proceeded to subdivide the said land into 24 portions, which he sold to the 2nd to 19th defendants. In this suit, the plaintiff wants the title of the defendants nullified as it is his view that their registration was procured by way of fraud.

2. Together with the suit, the plaintiff filed an application for injunction, seeking to restrain the defendants from the said suit properties. So far, only the 19th defendant has entered appearance, filed defence and responded to the application. His position is that he purchased the said land without any notice that the title of the 1st defendant was bad.

3. I have considered the application for injunction. I have seen from the documents annexed by the plaintiff, that his father appears to have balloted for the land parcel number 2443, which was later registered as the land parcel Naivasha/Mwiciringiri Block 4/ 2443. The defendants have not given me any material to show how the 1st defendant procured title to the land. There is therefore some evidence, prima facie, that the plaintiff could have been entitled to the land parcel No. 2443. I am of the opinion that it is necessary to preserve the subdivisions thereof so that in the event that the plaintiff succeeds, in the suit, he does not get a paper judgment.

4. I therefore make the following orders :-

*(i) That the defendants, their agents, and/or assigns are hereby barred by an order of injunction from developing any structures on the land parcels Naivasha/ Mwiciringiri Block 4/14804 to 14827 all inclusive, being subdivisions of the land parcel Naivasha/ Mwiciringiri Block 4/2443.*

*(ii) That an order of inhibition is hereby issued, barring the registration of any disposition in the register of the land parcels Naivasha/Mwiciringiri Block 4/ 14804 to 14827 all inclusive.*

*(iii) That costs of this application shall be costs in the cause.*

5. It is so ordered.

**Dated, signed and delivered in open court at Nakuru this 22<sup>nd</sup> day of October 2015.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**

**In presence of:**

Ms Nancy Njoroge for plaintiff /applicant

19<sup>th</sup> respondent present acting in person

Other respondents: absent

CA : Janet

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**