



**REPUBLIC OF KENYA**

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

**AT NAKURU**

**ELC NO 233 OF 2014**

**JOSEPH NKUYATA OLE MERERU.....PLAINTIFF**

**VERSUS**

**NAKUATUNI ENOLE MERERU.....DEFENDANT**

**RULING**

***(Application for injunction; application unopposed; application allowed)***

1. This suit was commenced by way of plaint filed on 8 August 2014. Together with the plaint, the plaintiff filed an application for injunction, which is the subject of this ruling. So far, the defendant has not entered appearance and has neither filed defence nor any response to the subject application.

2. The plaintiff is son of one Parsagaa Ole Tonkei, also known as Parsagaa Mereru (deceased) and he also holds letters of grant of administration for his estate, limited for purposes of filing suit. He has pleaded that Parsagaa was member of Olkinyei Group Ranch and beneficiary of the land parcel Narok/Cis-Mara/Olkinyei/891, which is land that is 68.63 hectares, about 171.575 acres. Parsagaa died on 15 March 2009. The plaintiff's case against the defendant is that the defendant fraudulently caused the said land to be transferred to her. Among the particulars of fraud pleaded is that the defendant intermeddled with the estate of the deceased without first obtaining letters of administration. In the suit, the plaintiff inter alia wants nullified the registration of the defendant as proprietor of the suit property.

3. To the supporting affidavit, the plaintiff annexed a copy of letters of administration ad litem; Certificate of Death of Parsagaa Mereru showing that he died on 15 March 2009; a copy of what was said to be a register of Olkinyei Group Ranch; transfer of the suit property from Olkinyei Group Ranch to the deceased; and a search certificate showing that the defendant became registered on 21 February 2014 as proprietor of the suit property.

4. I have considered the application. The same is not opposed. On my part I do not see why I should not allow it. I think the plaintiff has tabled some evidence that the suit property was owned by the deceased. It is not clear to me how the defendant obtained registration and without an explanation from her, I am of the view that a prima facie case, that the defendant may have obtained registration of the suit property irregularly, has been laid out. In the event that I was to consider the balance of convenience, I think the same tilts in favour of maintaining the suit property so that its proprietorship does not change, as the matter is being heard, which will complicate the suit.

5. I therefore allow the application and make the following orders :-

(i) The defendant is hereby barred from selling, charging, or in any way dealing with the property Narok/Cis-Mara/ Olkinyei/891 pending hearing and determination of this suit.

(ii) That an order of inhibition is hereby issued, barring the registration of any disposition in the register of the land parcel Narok/Cis-Mara/Olkinyei/891 pending hearing and determination of this suit.

(iii) Costs shall be in the cause.

6. It is so ordered.

**Dated, signed and delivered in open court at Nakuru this 8th day of October 2015.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT AND LAND COURT AT NAKURU**

**In presence of :-**

Ms. Nchoe holding brief for Ms. Muigai for plaintiff/applicant

Defendant: absent

Court Assistant : Janet

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT AND LAND COURT AT NAKURU**