



**REPUBLIC OF KENYA**

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

**ELC CASE NO. 140 OF 2015**

**HANNAH WARUGURU MWANGI**

**PAUL MWAURA MWANGI as Administrators and legal Representatives of  
SIMON RYBOY MWANGI (DECEASED).....PLAINTIFFS/APPLICANTS**

**VERSUS**

**SALOME WANJIRU GITOHO.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**DISTRICT LAND REGISTRAR**

**MURANGA.....2<sup>ND</sup> DEFENDANT/RESPONDENT**

**RULING**

By a plaint filed herein on 9<sup>th</sup> November 2015, the plaintiffs/applicants sought judgment against the defendants/respondents in the following terms:-

- 1. An order for perpetual injunction restraining the 1<sup>st</sup> defendant/respondent her servants, agents and/or any other persons claiming through her from entering, attempting to enter, trespassing, ploughing and/or working on the plaintiffs/applicants land No. NGINDA/SAMAR/BLOCK 2/728 and/or interfering with the plaintiff/applicant's usage and occupation of the same.***
- 2. An order for cancellation of the registration of title made to the 1<sup>st</sup> defendant/respondent by the 2<sup>nd</sup> defendant/respondent in respect of land parcel No. NGINDA/SAMAR/BLOCK 2/728 and the registration of the title in respect of SIMON RYBOY MWANGI (deceased) be sustained.***
- 3. Costs of this suit.***

The plaintiffs/applicants' case is that they are the legal administrators of the Estate of the late SIMON RYBOY MWANGI (deceased) who was at all material times the registered proprietor of parcel of land No. NGINDA/SAMAR/BLOCK 2/728 (hereinafter the suit property). On 15<sup>th</sup> October 2015, the 1<sup>st</sup> defendant/respondent trespassed onto the said suit property and damaged nappier grass as well as food crops hence this suit.

Simultaneously with the plaint, the plaintiff/applicants filed a Notice of Motion seeking orders restraining the 1<sup>st</sup> defendant/respondent from attempting to enter, trespassing, removing, ploughing and/or carrying

out any un-authorized works or interfering with the plaintiffs/applicants possession of the suit property pending the hearing of this suit. Though served with this application, neither of the two defendants/respondents filed any response to the same. The application is therefore un-opposed.

I have considered the application together with the supporting documents.

It is clear from the annexed title deed in respect of the suit property that the same is registered in the names of the late SIMON RYBOY MWANGI (deceased). It is also clear from the grant of probate issued in High Court Succession Cause No. 1804 of 2009 on 2<sup>nd</sup> February 2010 that the plaintiffs/applicants are the legal representatives of the deceased and therefore entitled to bring these proceedings. The acts of trespass alleged against the 1<sup>st</sup> defendant/respondent have not been rebutted.

In the circumstances, I am satisfied that the plaintiffs/applicants have satisfied me that they are entitled to the order sought in their Notice of Motion filed hereon on 9<sup>th</sup> November 2015. The same is therefore allowed with costs being in the cause.

**B.N. OLAO**

**JUDGE**

**27<sup>TH</sup> NOVEMBER, 2015**

27/11/2015

Before

B.N. Olao – Judge

Mwangi - CC

Mr. Mwangi for Njoroge for Plaintiffs – present

Defendants- absent

COURT: Ruling delivered, dated and signed this 27<sup>th</sup> day of November, 2015 in open Court.

**B.N. OLAO**

**JUDGE**

**27<sup>TH</sup> NOVEMBER, 2015**