



**Monanka & 3 others v Magoko (Enviromental and Land Originating Summons
E018 of 2024) [2024] KEELC 6307 (KLR) (26 September 2024) (Ruling)**

Neutral citation: [2024] KEELC 6307 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E018 OF 2024
GMA ONGONDO, J
SEPTEMBER 26, 2024**

**IN THE MATTER OF : LIMITATION OF ACTIONS ACT CHAPTER 22 LAWS OF KENYA
AND
IN THE MATTER OF: CLAIM FOR ADVERSE POSSESSION
PERSUANT TO SECTION 38 OF THE LIMITATION OF ACT
AND
IN THE MATTER OF : LR NO. BUKIRA/BUHIRIMONONO/332**

BETWEEN

**MAGAIWA MONANKA 1ST PLAINTIFF
MWITA MONANKA 2ND PLAINTIFF
MAKENGE MONANKA 3RD PLAINTIFF
MARIKO CHACHA MONANKA 4TH PLAINTIFF
AND
JOSEPH GITANGITA MAGOKO RESPONDENT**

RULING

1. By Notice of motion dated 20th June 2024, the applicants through Mr. Mwitwa Kerario and Company Advocate are seeking the order thus:-
 - a. That pending the hearing and determination of this suit this court be pleased to stay the execution of the orders and/or the certificate of confirmation of grant issued in Kehancha Senior Principal Magistrate's Court Succession No. E020 of 2021 particularly the partition and/or subdivision and transfer of portions of land parcel No. Bukira/Buhirimonono/332. (the suit land herein)



- b. That this Honorable court be pleased to grant such others of orders as may be suitable for preservation of the suit property pending the hearing and determination of the suit.
 - c. That the costs of this application be provided for.
2. The motion is founded upon the applicant's affidavit of 29 paragraphs of even date and 21 grounds on the face of it. The grounds include that;-
 1. The defendant, intends to partition and/or subdivide the suit land in execution of the orders of the subordination court without regard to the rights and interest of the plaintiffs who are in actual occupation and possession of the suit property.
 2. That the defendant has started to destroy known boundary fitness of the suit property and threatens to evict the plaintiff from the suit property.
 3. Mr. Mwita Kerario learned counsel for the applicant has implored the court to grant status quo order in lieu of the injunction as sought in the application over the suit land.
 4. The respondent duly served has not opposed the application.
 5. In the circumstances, the motion is hereby determined in terms of status quo order to prevail over the suit land pending the outcome of the suit pursuant to Sections 13 (7) (a) of the [Environment and Land Court Act](#) 2015 (2011) and the decision in [Ogada v Mollin](#) (2009) KLR 620.
 6. For clarity, the parties shall not sell, charge, transfer, or subdivide the suit land pending the hearing and determination of this suit.
 7. Costs of the motion in the cause.
 8. It is so ordered

DATED AND DELIVERED AT MIGORI THIS 26TH DAY OF SEPTEMBER 2024

G. M. A. ONGONDO

JUDGE

In the presence of ;

Mr. Mwita Kerario learned counsel for applicant

Tom- Court Assistant

