



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**HIGH COURT CIVIL CASE NO. 68 OF 1992**

**THOMAS GITONGA M'RUKUNGA ..... PLAINTIFF**

**VERSUS**

**STEPHEN NGIRI ..... 1<sup>ST</sup> DEFENDANT**

**LAND ADJUDICATION OFFICER ..... 2<sup>ND</sup> DEFENDANT**

**ATTORNEY GENERAL ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

Thomas Gitonga M'Rukunga the plaintiff herein sought by this action a declaration that the defendants Stephen Ngiri and the land adjudication officer had by collusion taken his 10 points from parcel number *Maua/Amwathi/3136* and further sought a declaration that the same was given to the 1<sup>st</sup> defendant and included in the 1<sup>st</sup> defendant's parcel number 5368. This court by its judgment delivered on 19<sup>th</sup> November 2010 found that the plaintiff had not proved his case on a balance of probability. The plaintiff's case was dismissed. The plaintiff was aggrieved by that judgment and has filed a Notice of Appeal dated 22<sup>nd</sup> November 2010. Now the plaintiff seeks orders of inhibition to issue over parcel *Maua/Amwathi/5368* until the final determination of the intended appeal. Learned counsel Mr. Kaumbi for the plaintiff submitted that inhibition would ensure the land in question is preserved so that the appeal

would not be defeated by any other transfer of that land. The 1<sup>st</sup> defendant in the replying affidavit stated that he took possession of that land in 1987 and constructed a semi permanent kiosk and garage thereon. His learned counsel Mr. B.G. Kariuki stated in submissions that the 1<sup>st</sup> defendant has no intention to alienate that land. The application for inhibition was not opposed by the attorney general. The application for inhibition as correctly submitted by the plaintiff will ensure that the parcel of land is not transferred to other parties while the appeal is pending. It is therefore merited. I grant the following orders:-

**1. An order of inhibition is hereby issued over parcel number Maua/Amwathi/5368 until the determination of the plaintiff's appeal before Court of Appeal or until further orders of this court.**

**2. The costs of the Notice of Motion dated 2<sup>nd</sup> December 2010 shall abide with the outcome of the appeal.**

**Dated, signed and delivered at Meru this 13<sup>th</sup> day of April 2011.**

**MARY KASANGO**

**JUDGE**



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