



Karanja v Mukunya & 3 others; Wamukunya & 3 others (Interested Parties) (Environment & Land Case 1289 of 2014) [2023] KEELC 17172 (KLR) (27 April 2023) (Ruling)

Neutral citation: [2023] KEELC 17172 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 1289 OF 2014**

**LN MBUGUA, J
APRIL 27, 2023**

BETWEEN

JOSEPH KABUGI KARANJA PLAINTIFF

AND

BENSON MUGO MUKUNYA 1ST DEFENDANT

JOYCE WAMBUI LANGAT 2ND DEFENDANT

MILKA KANENE NDUNGU 3RD DEFENDANT

BERNARD LEITICH, LAND REGISTRAR THIKA 4TH DEFENDANT

AND

EMMA WAIRIMU WAMUKUNYA INTERESTED PARTY

SAMUEL MAGANA MUNGAI INTERESTED PARTY

JOSEPH MUIHAI KIBUNJA INTERESTED PARTY

JEREMIAH KIHONGE KIMANI INTERESTED PARTY

RULING

1. Before me is an application dated 7.10.2022. It is brought by one Emma Wairimu Wamukunya who seeks to be enjoined in these proceedings as an Interested Party, that there be a stay of the ruling of 10.11.2021 pertaining to title no. Loc 16/Kimandi-Wanyaga 1262 and that the court do issue orders and directions with respect to further conduct of the suit.
2. The application is based on grounds on its face and on the Applicant's supporting affidavit sworn on 6.10.2022. She deposes that she is the registered owner of the property known as Title No. Loc 16/Kimandi-Wanyaga /1262 which is a subdivision of Title No. Loc.16/Kimandi-Wanyaga/775 by virtue of purchase from the 1st Defendant. She avers that she enjoyed ownership of the suit property



since purchase on 15.12.2018 till November 2021 when she came to learn that this suit is ongoing and the Plaintiff herein had been granted orders to have title deeds issued after the subdivision of Title No.Loc.16/Kimand-Wanyaga/775 revoked and/or nullified.

3. The application is opposed by the Plaintiff by way of grounds of opposition dated 6.2.2023. He argues that the application is resjudicata within the meaning of Section 7 of the Civil Procedure Act as 3 other Interested Parties namely; Samuel Magana Muigai, Joseph Muigai Kibunja and Jeremiah Kihonge Kimani filed a similar applications seeking similar orders and the said application was determined vide a ruling dated 23.2.2022 therefore the court is functus officio.
4. One Samuel Magana, an interested party is not opposing the application, while the defendants did not file any documents in relation to this application. Further, none of the parties filed submissions as per the court directions given on 14.2.2023.
5. On 4.12.2018, the Plaintiff and the Defendants entered into a consent which was adopted as an order of the court on 20.5.2019. The consent provided that the suit land; Loc 16/Kimanid/Wanyaga 775 be subdivided and 3 acres transferred to the Plaintiff herein.
6. The history of the dispute herein is well captured in the ruling delivered by this court on 10.11.2021. Applications similar to the current application were subsequently brought forth by interested parties of which the court rendered itself in a ruling dated 23.2.2022 dismissing those other applications save the prayer for joinder. The current applicant was not a party to the previous applications, but again, I have no reason to deviate from the previous pronouncements. In the said ruling of 23.2.2022, the court determined that since the matter is at the execution stage, it cannot be halted to allow other parties to bring their claims. As pointed out by the plaintiff, this court is functus-offio in so far as the dispute is concerned.
7. Thus the current application dated 7.10.2022 faces similar fate as previous applications of interested parties. The said application is hereby dismissed save the prayer no. 3 for joinder. The applicant is condemned to pay costs of the application to the plaintiff.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27TH DAY OF APRIL, 2023 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

M/s Maina for the Proposed Interested Party

M/s Waweru holding brief for Ongeri for Plaintiff / Respondent

Sala holding brief for Muriithi for 1st Interested Party

Court assistant: Vanilla

