



**City Council of Nairobi v Sikamoi & 2 others (Environment & Land
Case 392 of 2008) [2023] KEELC 16959 (KLR) (20 April 2023) (Ruling)**

Neutral citation: [2023] KEELC 16959 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 392 OF 2008**

**LN MBUGUA, J
APRIL 20, 2023**

BETWEEN

CITY COUNCIL OF NAIROBI PLAINTIFF

AND

JOEL KANI OLE SIKAMOI 1ST DEFENDANT

**BOARD OF MANAGEMENT OF GARDEN ESTATE SECONDARY
SCHOOL 2ND DEFENDANT**

**BOARD OF MANAGEMENT OF GARDEN ESTATE PRIMARY
SCHOOL 3RD DEFENDANT**

RULING

1. On 27.2.2023, this matter was scheduled for hearing in open court when advocate E Gaturu appeared and addressed the court, stating that he represents a client by the name James Kimani Horeria who is not a party to this suit. That a survey report has been tendered before this court and it covers his clients land LR No 20528 registered in the name of Margaret Nyakinyua Murigo, which land is a subject of an appeal at the Court of Appeal Case No 41/2004 Nairobi, where a decree was issued on 21.2.2013. He avers that his client's land was never part of the school, yet it has been included in the report.
2. Counsel Kerubo for the 2nd and 3rd defendants stated that she had seen the mentioned court order which refers to LR 20528 Garden Estate which is not captured in the survey report.
3. Counsel Mengitch for plaintiff in ELC 1057 /2016 stated that the person mentioned by counsel E Gaturu was present during the site visit and that if he desired to participate in the proceedings, he should seek to be joined in the case.



4. Counsel Nyang for defendant in ELC 392 of 2008 aligned herself with the sentiments of counsel Kerubo, adding that the subject matter is isolated, and that they ought to move the court in the right way.
5. In rejoinder, counsel E Gaturu stated that his client's land is No 20528 but due to fraudulent dealings, the land now reads No 20605.
6. I have considered the issue raised herein. I note that the survey report in question came about due to consent orders given on 3.10.2022 where parties agreed that there be a scene visit of which a report was duly availed.
7. The person who apparently has an issue with the report is not a party in these proceedings and hence he has no locus to apply that a part of the report be expunged. If the said person desires to participate in any part of these proceedings, then he has to make the necessary application to that effect; Otherwise it is not the place of this court to expunge any part of the report at this stage, nor can the court determine that parcel 20605 mentioned in the report is the same parcel as LR 20528 allegedly belonging to Mr Gaturu's client. The application by Mr E Gaturu to expunge a part of the survey report is hereby declined.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 20TH DAY OF APRIL, 2023 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Nyang for the Defendants and holding brief for the 2nd Defendant in 1057 of 2016

Gaturu for the Applicant

Court assistant: Joan

