



REPUBLIC OF KENYA



KENYA LAW
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**Muriuki v Haji & 12 others (Environment and Land Appeal
E097 of 2023) [2023] KEELC 17052 (KLR) (20 April 2023) (Ruling)**

Neutral citation: [2023] KEELC 17052 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND APPEAL E097 OF 2023**

LN MBUGUA, J

APRIL 20, 2023

BETWEEN

EPHANTUS MUGO MURIUKI CLAIMANT

AND

UDBI YAYEYE HAJI 1ST RESPONDENT

FATUMA MAALIM ALIO 2ND RESPONDENT

MUIKTAR ABDULLE OMAR 3RD RESPONDENT

MUHYIDIN MOHAMED DHUHULOW 4TH RESPONDENT

ADAN GABOE NOOR 5TH RESPONDENT

HAWA ELMI SHEIKH 6TH RESPONDENT

ALI RUKENYO AHMED 7TH RESPONDENT

CHIEF LAND REGISTRAR 8TH RESPONDENT

ATTORNEY GENERAL 9TH RESPONDENT

NATIONAL LAND COMMISSION 10TH RESPONDENT

COMMISSIONER OF LANDS 11TH RESPONDENT

NAIROBI CITY COUNCIL 12TH RESPONDENT

DIRECTOR OF PHYSICAL PLANNING 13TH RESPONDENT



RULING

1. This suit was filed contemporaneously with an application dated February 13, 2023 where the plaintiffs are seeking injunctive orders against the defendants. The aforementioned application was scheduled for inter-partes hearing on April 13, 2023.
2. On the said date of April 13, 2023, the plaintiff's counsel urged the court to grant interim orders in terms of prayer no. 2 in the application. In opposition thereof, the counsel for the 2nd -7th defendants stated that there is a similar case ELC No. 122 of 2023 before Judge Wabwoto, whereby the 2nd – 7th defendants have already obtained interim orders against the claimants in the current suit (E097 of 2023). Thus there is a risk of the court giving conflicting orders if any orders are granted herein. The said counsel avers that the subject matter is the same in both suits.
3. In rejoinder, counsel for the plaintiffs herein averred that they became aware of the other suit the previous day (April 12, 2023), that their case was filed on March 24, 2023, while the other suit (ELC 122 of 2023) was filed thereafter. The counsel averred that the 2nd -7th defendants are applying sharp practice and that the orders issued before Judge Wabwoto are an illegality. Thus the court ought to issue the interim orders.
4. I have weighed all the arguments raised herein. There is no controversy that there is another suit ELC No. 122 of 2023 before judge Wabwoto. The 2nd to 7th defendants contend that they were granted interim orders against the current plaintiffs. This Court cannot interfere with the said orders issued by my brother Judge Wabwoto due to the question of Jurisdiction. Jurisdiction is revered; of which this Court has parallel jurisdiction with Judge Wabwoto. Thus this court cannot purport to declare the orders made in case No. 122 of 2023 as illegal.
5. Further, this court takes cognizance that granting any orders herein at this stage, when similar restraining orders have been given in another file to the rival parties would create a conundrum. In the case of *Republic v Paul Kihara Kariuki, Attorney General & 2 others ex parte Law Society of Kenya* [2020] eKLR, the court had this to say in reference to multiplicity of suits;

“The second suit presented a sad scenario of not only having parallel proceedings on the same issues involving the same parties but also a great risk of coordinate courts granting conflicting orders”

6. In light of the foregoing analysis, I hereby give directions for this suit to be mentioned alongside file No 122 of 2023 before Judge Wabwoto for further directions and determination.

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

LUCY N. MBUGUA

JUDGE

In the presence of:-

Njakyo for the Plaintiff

Mutunga for the 2nd-7th Defendants**

Gashuna for 12th Defendant



Shikali for the 2nd Respondent

Court assistant: Joan

