



Republic v Land Registrar, Kajiado North & another; Solio (Exparte Applicant) (Judicial Review Miscellaneous Application E005 of 2022) [2023] KEELC 17831 (KLR) (30 May 2023) (Ruling)

Neutral citation: [2023] KEELC 17831 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E005 OF 2022**

MN GICHERU, J

MAY 30, 2023

**N THE MATTER OF THE LAND REGISTRATION ACT NO. 3 OF
2012 LAWS OF KENYA**

AND

IN THE MATTER OF SECTIONS 8 AND 9 OF THE LAW REFORMS ACT, CAP 26

AND

**IN THE MATTER OF JUDICIAL REVIEW FOR AN ORDER OF MANDAMUS
AGAINST THE LAND REGISTRAR, KAJIADO NORTH**

BETWEEN

REPUBLIC APPLICANT

AND

LAND REGISTRAR, KAJIADO NORTH 1ST RESPONDENT

ATTORNEY GENERAL 2ND RESPONDENT

AND

SIMANKA ENE SOLIO EXPARTE APPLICANT

RULING

1. This ruling is on the Notice of Motion dated 6/2/2023. The motion which is brought under articles 23 (3) (f), 47 (1) of the [Constitution of Kenya](#), Sections 8 and 9 of the [Law Reform Act](#), 3A of the [Civil Procedure Act](#) and Order 53 Rules 1 and 2 of the [Civil Procedure Rules](#) seeks the following orders.
 - i. Mandamus directed at the first Respondent herein, the Land Registrar Kajiado North, compelling him to forthwith register the mutation lodged by the ex parte Applicant on



11/8/2021 to enable the subdivision of and transfer of 1 acre as a portion of all that property known as LR No Kajiado/Olchoro Onyore/4184 within Kajiado County, suit land.

- ii. Prohibition prohibiting and/or restraining the first Respondent by himself, his agents or persons acting on his behalf from doing anything to cancel or in any way adversely interfere with the Applicant's ownership of and right to transfer the suit land
 - iii. That the court do grant such other or further reliefs as it may deem fit in the circumstances.
 - iv. That the costs of these proceedings be borne by the Respondents.
2. The grounds for seeking the above orders are as follows.
- Firstly, the first Respondent has refused to approve an application for registration of a mutation for the subdivision and transfer of 1 acre from the suit land to Truck Two Investments Limited with whom the ex parte applicant has entered into an agreement for sale of the said one acre.
3. Secondly, the first Respondent has told the ex parte applicant and her family that he will not approve the registration of the said mutation because he will never allow Innocent Masara, a director of Truck Two Investments K. Limited own any property in Kajiado North for as long as he is the Land Registrar at the said registry.
4. Thirdly, the first Respondent has as a result of the refusal to approve the mutation made the Applicant breach her contract with the buyer.
5. Fourthly, the first Respondent has refused to afford the ex-parte Applicant and the intended purchaser of the suit land the opportunity to address him or his office in order to consider the registration of the mutation.
6. The first Respondent's refusal to act as expected of him amounts to abuse of power conferred by Section 14 of the [Land Registration Act](#) and only the above orders will check the said abuse.
7. The motion is also supported by an affidavit sworn by the Applicant dated 2/6/2022 which has four (4) annexures. At paragraph 9, the Land Registrar who has allegedly refused to approve or register the mutation complained of has been identified as James Mwambia.
8. The motion, though served is unopposed and no appearance has been made in the suit by the Respondents.
9. I have carefully considered the motion in its entirety including the grounds, supporting affidavits and annexures. I have also considered the power of Land Registrars under Section 14 of the [Land Registration Act](#). Such powers include refusal to proceed with registration of any instrument if any material required is withheld. Since the motion is unopposed, I allow it as drawn.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 30TH DAY OF MAY, 2023.

M.N. GICHERU

JUDGE

