

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

MISCELLANEOUS SUCCESSION APPLICATION NO. E008 OF 2022

CORAM: HON. R.E. ABURILI, J

IN THE MATTER OF THE ESTATE OF DISHON WAROM (DECEASED)

AND

JOAB ONYANGO WAROM.....PETITIONER/APPLICANT

RULING

1. I have considered the application dated 23/3/2022, under Certificate of urgency. I certify it as urgent. On the merits thereof, although this is a matter to be considered *ex parte*, I observe as follows:
2. That the applicant in Prayer No. 2 seeks for grant of Letters of Administration *ad litem* limited for purposes of filing suit against the National Social Security Fund Board of Trustees, the former employer of the deceased for the payment of severance pay, PAYE and other benefits payable.
3. However, in the grounds in support of that prayer, the supporting affidavit and certificate of urgency, the applicant claims that the purpose of the limited grant as sought is to enable the applicant institute suit against Joab Odeny Ogato who sought eviction of the applicant from North Gem/Siriwo/806 through ***Civil Suit No. 35 of 2018 (309/2017 Kisumu)*** before the Magistrate's court at Siaya on 7/9/2017 for a declaration that he is a bona fide proprietor of the land parcel No. North Gem/Siriwo/806 and a permanent injunction restraining the applicant from occupying the said parcel of land.
4. The applicant continues to aver that the court on 18/4/2019 issued an order requiring the applicant and the 1st Respondent to vacate land parcel No. LR No. North Gem/Siriwo/806.
5. That subsequently, and without being moved, the same court on 3/9/2020 issued an eviction order against the applicant from the above named land and that he is now at risk of being evicted from the said parcel of land and he is at the mercy of the OCS.
6. No doubt, there is no relationship between the prayers being sought by the applicant and the reasons or grounds in support thereof. It would appear that the applicant copy pasted the application. This court is unable to link the orders sought, their purpose and the grounds.
7. I decline to grant the prayers sought. The application for limited grant - *ad litem* is declined and dismissed for being incongruent with the grounds in support and the supporting affidavit.
8. The applicant is however not barred from filing a proper application in a different file, for consideration by this court.
9. File closed.
10. I so order.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 29TH DAY OF MARCH, 2022

R.E. ABURILI

JUDGE