



**Karimi v District Land Adjudication Officer Ruiru/Rwarera Adjudication  
Section & 2 others; Marete (Interested Party) (Judicial Review Miscellaneous  
Application E006 of 2023) [2023] KEELC 19020 (KLR) (19 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 19020 (KLR)

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**JUDICIAL REVIEW MISCELLANEOUS APPLICATION E006 OF 2023**

**CK NZILI, J**

**JULY 19, 2023**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO INSTITUTE  
JUDICIAL REVIEW PROCEEDINGS FOR ORDERS OF CERTIORARI**

**AND**

**IN ACCORDANCE WITH ORDER 53 OF THE CIVIL PROCEDURE RULES 2010**

**AND**

**IN THE MATTER OF THE DECISION OF THE MINISTER IN CASE  
NO.255 OF 2019 WITH RESPECT TO THE PARCEL OF LAND KNOWN  
AS PARCEL NO.3047 RUIRI/RWARERA/ADJUDICATION SECTION**

**BETWEEN**

**GLADYS KARIMI ..... EXPARTE APPLICANT**

**AND**

**DISTRICT LAND ADJUDICATION OFFICER RUIRI/RWARERA  
ADJUDICATION SECTION ..... 1<sup>ST</sup> RESPONDENT**

**CABINET SECRETARY FOR LANDS ..... 2<sup>ND</sup> RESPONDENT**

**THE HON ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**MARGARET NYOROKA MARETE ..... INTERESTED PARTY**



## RULING

1. By an application dated April 17, 2023, the court is asked to grant leave to the *ex parte* applicant to institute judicial review proceedings of *certiorari* to remove into this court and quash the 2<sup>nd</sup> respondent's decision made on October 19, 2022 in Case No 255 of 2019, over parcel number 3047 Ruiiri/Rwarera adjudication section, the Minister's Appeal No 255 of 2019 be referred back to be determined per the law and leave granted to act as a stay of the decision described above regarding the suit land. The application is accompanied by a statutory statement dated April 17, 2023 and a verifying affidavit by Gladys Karimi sworn on April 17, 2023, in which she has attached the Minister's appeal ground and the decision made as GK "1" & "2", respectively.
2. Briefly, it is the applicant's averment that her mother, the late Zipporah Kinaitore, was allocated the suit land by the Minister of Lands in 1969, measuring approximately 24.5 acres which she had occupied until 2015 when she discovered that it had been subdivided into two portions namely parcel No's 303 and 3047. It was averred that an objection was raised regarding the alleged subdivision, which was dismissed. She, therefore, preferred the minister's appeal.
3. The *ex parte* applicant avers that the Minister, in hearing the appeal failed to consider that the interested party had never utilized the suit land and that her confirmation letter preceded the purported subdivision in 2015.
4. The court's jurisdiction at the *ex parte* stage is essentially to give an applicant entry into the judicial arena so that he can vindicate his right or claim. The purpose of the leave is firstly to eliminate any vexatious, frivolous, or hopeless applications at an early stage and secondly to confirm that the applicant has satisfied that there is a case fit for further consideration.
5. Leave allows the courts to stop any busybodies and prevents their time from being wasted on trivial complaints on administrative errors so that public bodies or public officers might be free to execute administrative action without being bogged down by such trivialities as held in *Republic v County Council of Kwale and another Ex parte Kondo and 57 others* (1996) eKLR.
6. At the leave stage, a court does not delve deeply into the merits or arguments of the parties but makes a cursory perusal of the evidence before it decides whether the applicant requires the doors of justice to be opened for him. See *Uwe Meixner & another v AG* (2005) eKLR. It filters out frivolous applicants, thus the discretion to do so must be exercised judiciously, and the test to apply is whether an applicant has an arguable case.
7. In this application, the decisions sought to be quashed were issued on October 19, 2022. This application was filed on April 18, 2023, which was within the statutory six months under order 53 of the *Civil Procedure Rules*. The court has not been told if the decision has been implemented. Leave granted shall act as stay for one year only. The applicant shall file an undertaking for damages for Kshs 1 million alongside the notice of motion within 21 days from the date hereof.

Orders accordingly.

**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU**

**ON THIS 19<sup>TH</sup> DAY OF JULY 2023**

**In presence of**

C.A John Paul



Gachohi for Mutuma for the applicant

**HON. CK NZILI**

**ELC JUDGE**

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