



Mwani & another v Land Registrar Kajiado North (Ngong) & another (Judicial Review E012 of 2022) [2023] KEELC 20058 (KLR) (25 September 2023) (Judgment)

Neutral citation: [2023] KEELC 20058 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
JUDICIAL REVIEW E012 OF 2022
LC KOMINGOI, J
SEPTEMBER 25, 2023
IN THE MATTER OF JUDICIAL REVIEW PROCEEDINGS FOR
ORDERS OF MANDAMUS
AND
IN THE MATTER OF: BREACH OF ARTICLE 47 OF THE
CONSTITUTION OF KENYA 2010
AND
IN THE MATTER OF: LAND PARCEL NO.NGONG/NGONG/94034
AND
IN THE MATTER OF: LAND REGISTRATION ACT NO.3 OF 2021
LAWS OF KENYA
AND
IN THE MATTER OF AN APPLICATION FOR A NOTICE OF MOTION
FOR JUDICIAL REVIEW PROCEEDINGS FOR
AN ORDER OF MANDAMUS
IN THE MATTER OF: SECTION 8 AND 9 OF THE LAW REFORMS
ACT CAP 26 LAWS OF KENYA

BETWEEN

ODILLIE MUTAKA MWANI 1ST APPLICANT

LISA MARIA MUHANDICHI MAYENDE 2ND APPLICANT

AND

THE LAND REGISTRAR KAJIADO NORTH (NGONG) 1ST RESPONDENT



JUDGMENT

1. This is the notice of motion dated July 10, 2023 brought under;

(Under sections 8 and 9 of the *Law Reform Act*, chapter 26 of the laws of Kenya, order 53, rule 3 and 4 of the *Civil Procedure Rules*, 2010, article 47 of *the Constitution* of Kenya, section 4(1), (b) and (c) of the *fair administrative Action Act*, sections 14(1) & (2) of the *Land Registration Act* and all enabling provisions of the Law).
2. It seeks orders;
 1. An order of Mandamus compelling the Land Registrar Kajiado North (Ngong) the 1st Respondent herein to register the transfer instrument dated February 26, 2020 and to subsequently issue a title deed in respect of property Title No.Ngong/Ngong/94034.
 2. Costs of the Application.
3. The grounds are on the face of the application and are set out in paragraphs 1 to 19.
4. The application is supported by the affidavit of Lisa Maria Muhandichi Mayende, sworn on the October 25, 2022.
5. Despite being served the respondent's have not file any responses.
6. It is the ex parte applicant's case that the 1st respondent has wrongly abdicated and abandoned his duties and power in failing to exercise his public duty to register, transfers of interest in land and issue a valid title deed in respect of the suit property, thus infringing on the applicant's right to property as well as fair administration action.
7. It is also their case that the refusal to register the transfer is in bad faith, malicious and inclined to frustrate the applicants.
8. The application is unopposed.
9. I am satisfied that the ex parte applicant's have made out a good case to warrant the orders sought.
10. Accordingly I grant the following orders;
 - a. That an order of Mandamus is hereby issued compelling the Land Registrar, Kajiado North (Ngong) the 1st Respondent herein to register the transfer instrument dated February 26, 2020 and to subsequently issue a title deed in respect of Ngong/Ngong/94034.
 - b. That I make no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 25TH DAY OF SEPTEMBER 2023.

L. KOMINGOI

JUDGE.

