



**Chepkonga v Kuikui & 3 others (Environment & Land Case  
173 of 2016) [2023] KEELC 19891 (KLR) (21 September 2023) (Ruling)**

Neutral citation: [2023] KEELC 19891 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIRONMENT & LAND CASE 173 OF 2016  
EO OBAGA, J  
SEPTEMBER 21, 2023**

**BETWEEN**

**PETER CHEPKONGA ..... PLAINTIFF**

**AND**

**HELENA TARGOK KUIKUI ..... 1<sup>ST</sup> DEFENDANT**

**AMOS TUITOEK ..... 2<sup>ND</sup> DEFENDANT**

**HENRY TUITOEK ..... 3<sup>RD</sup> DEFENDANT**

**HELENA TARGOK KUIKUI (SUING ON BEHALF OF THE ESTATE OF THE  
LATE KUIKUI CHEPKONGA – DECEASED) ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. This is a ruling of a notice of motion dated 8/5/2023 in which the 1<sup>st</sup> Defendant/Applicant seeks the following orders: -
  1. Spent
  2. That this honourable court be pleased to authorise the Deputy Registrar of this honourable court to execute all the necessary documents to facilitate the execution of this honourable court's decree issued on July 29, 2022 with respect to parcel number Baringo/Kapropita/19.
  3. That the Land Registrar Baringo County be and is hereby directed to dispense with the production of the original title deed with respect to parcel number Baringo/Kapropita/19 for purposes of effecting the subdivision and registration/transfer in compliance with the decree issued on July 29, 2022.
  4. That the OCS Kabarnet Police Station do provide security to the County Surveyor during the picking of the coordinates.



5. That costs for this application be provided.
2. The plaintiff /Respondent had filed a suit against the Applicant and her family in which he sought to have them evicted from LR No Baringo/Kapropita/19 (suit property). The Applicant filed a defence and raised a counter claim in which she among others sought a declaration that he Respondent was holding half of the suit property on behalf of the Estate of Kuikui Chepkonga.
3. In a judgment delivered on 27/7/2022, the Respondent's suit was dismissed with costs and the Applicants counter-claim succeeded. The court directed that the Baringo County Land Registrar and surveyor do ensure that the suit property is subdivided into two equal shares thereof.
4. The Respondent filed an application for stay pending appeal but that application was dismissed in a ruling delivered on 2/2/2023. The Applicant extracted a decree and served it upon the County Surveyor who went to the ground to implement the court order as per the decree. After the County Surveyor had done a substantial work, the Respondent's son disrupted the exercise.
5. The Applicant now contends that the Respondent has refused to surrender the original title and sign other conveyancing documents to enable a smooth registration of the respective portions of the Applicant and the Respondent.
6. The Respondent opposed the Applicant's application based on a replying affidavit sworn on 25/5/2023. The Respondent contends that the Applicant's application is premature and that there is no evidence that he has been asked to sign conveyancing documents and that he has refused.
7. The Respondent states that the original title got lost and that he has not procured a replacement. He states that he had been willing to sign conveyancing documents but that the Applicant and her family have been hostile to him and that he has feared for his life. He claims that if the execution was to proceed, his appeal which he has filed will be rendered nugatory.
8. I have carefully considered the Applicant's application as well as the opposition to the same by the Respondent. I have also considered the oral submissions made during the hearing of the application. The only issue for determination is whether the Applicant has demonstrated that she deserves the orders sought.
9. It is apparent from the affidavit of the Respondent that he is not willing to sign the conveyancing documents. At one stage, he claims that the title is lost and at another stage, he claims that it is the Applicant and her family who are preventing him from signing the conveyancing documents as he fears for his life. The Respondent is being economical with the truth. It is clear that he is unwilling to sign the documents.
10. The Respondent has not denied the fact that his son disrupted the survey exercise which was at its tail end. This being the case, it is necessary that Police ensure that there is security during the time the surveyor will go to the ground to pick the coordinates. I find that the Applicant's application is well founded. I allow it in terms of prayers (2), (3), (4), and (5).

It is so ordered.

**DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 21<sup>ST</sup> DAY OF SEPTEMBER, 2023.**

**E. O. OBAGA**

**JUDGE**

In the virtual presence of;



Ms. Kayeli for Mr. Sambu for Defendant/Applicant.

Mr. Mwangi for Mr. Kibet for Plaintiff/Respondent.

