

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

CIVIL APPEAL. NO. 14 OF 2017

AMOS NKAATE TANYANGENG.....APPELLANT

-VERSUS-

MANN WHEAT FARM LTD.....RESPONDENT

RULING

1. The applicant, Amos Nkaate Tanyaeng, filed his application dated 27th April, 2018 seeking the following orders:

1) That the matter be certified urgent.

2) That the court discharges, varies, stays and/or sets aside its order of 6th March, 2018 and in its place a substituted order be made to admit as security land title deed parcel No. CIS-Mara/Lemek/75 as security for costs in the cause instead of depositing Kshs.700,000.

3) An order to vary this court's order of 6th March, 2018, which required the applicant to deposit cash Kshs.1,000,000 as security for costs.

4) Any other order the court may deem fit to grant.

2. The application is supported by nine grounds that are set out on the face of notice of motion. It is also supported by a 15 paragraphs supporting affidavit of the applicant.

3. Mr. Kamwaro for the applicant filed written submissions in support of the application.

4. Mr. Kiptoo for the respondent filed written submissions in opposition to the application in addition to filing a replying affidavit by the respondent, in opposition to that application. During oral arguments on 12th July, 2018, it came to light that the applicant had deposited Kshs.300,000 in compliance with the order of this court (Meoli, J), which also was for security for costs.

5. I find that I should not have issued another order requiring the applicant to deposit an additional Kshs.700,000, as security for costs. In the circumstances I find that my order of 6th March, 2018 was made in error and I therefore set it aside.

6. Costs of this application will be costs in cause.

Ruling delivered in open court this 23rd day **July, 2018** in the presence of Mr. Ombui holding brief for Mr. Kiptoo for the respondent.

J. M. BWONWONGA

JUDGE

23/7/2018