



REPUBLIC OF KENYA



**Hussien v Tillo & 3 others (Environment & Land Case 5 of 2022)
[2023] KEELC 21790 (KLR) (27 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21790 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND CASE 5 OF 2022
PM NJOROGE, J
NOVEMBER 27, 2023**

BETWEEN

FOWZIA BISHAR HUSSIEN PLAINTIFF

AND

ABDULKADIR ABDULLO TILLO 1ST DEFENDANT

MIN. OF LANDS & PHYSICAL PLANNING 2ND DEFENDANT

ISIOLO LAND REGISTRAR 3RD DEFENDANT

ISIOLO NATIONAL LAND COMMISSION OFFICE 4TH DEFENDANT

RULING

1. This application is dated 4/7/2022 and seeks orders;
 1. That this application be certified urgent and be heard ex parte in the first instance.
 2. That an interlocutory injunction do issue restraining all the Defendants/Respondents herein whether acting in person, by proxy, through their servants or agents, advocates or employees or any other person acting for and/or on their behalf, from transferring, trespassing into, cultivating, constructing upon, leasing and/or otherwise howsoever interfering with the ownership of title to and/or interest in all that property known as Plot No. 112 Kiwanjani Estate Isiolo pending the hearing and determination of this application inter-parties.
 3. That an interlocutory injunction do issue restraining all the Defendants/Respondents herein whether acting in person, by proxy, through their servants or agents, advocates or employees or any other person acting for and/or on their behalf, from transferring trespassing into, cultivating, constructing upon, leasing and/or otherwise howsoever interfering with the Plaintiff/Applicant's ownership of the title to and/or interest in all that property known as Plot



No. 112 Kiwanjani Estate Isiolo pending the hearing and determination of this application inter-parties pending the hearing and determination of this suit filed herewith(sic).

4. That an order of eviction be and is hereby issued against the 1st Defendant/Respondent.
 5. That the officer commanding station Isiolo Police Station do ensure compliance with this order.
 6. That orders do issue against the 3rd Defendant/Respondent to provide report (sic) on the ownership of Plot No.112 Kiwanjani Estate Isiolo within 21 days or within a stipulated period that this Honourable Court deems fit.
 7. That the Plaintiff/Applicant be at liberty to apply for such or other orders and/or directions as this Honourable court may deem fit and just to grant.
 8. That the cost of this application be provided for.
2. The application is supported by the grounds on its face and also by the affidavit of Fowzia Bishar Hussein, the applicant.
 3. Despite the court ordering several times the applicant to serve her submissions upon the respondents' advocate, this was not done. As a result the respondents could not satisfactorily respond through submissions, to the application. On 18/9/2023, Advocate Kevin Nyenyire asked the court to dismiss the application for want of proper prosecution and for disobedience by the applicant of court orders issued on 17/4/2023 and 29/5/2023. I agree with advocate Nyenyire that the applicant is in disobedience of court orders.
 4. I note from the filed pleadings that both parties lay claim to the suit property. It is unfortunate that the applicant has refused to serve her submissions upon the respondents.
 5. I issue the following orders;
 - a. The plaintiff's application dated 4/7/2023 is hereby dismissed.
 - b. The parties are directed to concurrently comply with order 11 CPR, within 14 days of today.
 - c. Costs concerning this application shall be in the cause.
 - d. Directions will be issued on 19/2/2024.

DELIVERED IN OPEN COURT AT ISIOLO THIS 27TH DAY OF NOVEMBER, 2023 IN THE PRESENCE OF:

Court assistant: Balozi/Rahma

All parties not in court.

HON. JUSTICE P.M NJOROGE

JUDGE

