



**Morjaria v Chebor & 5 others (Environment & Land Case E031 of 2023)
[2023] KEELC 21798 (KLR) (24 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21798 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE E031 OF 2023
A OMBWAYO, J
NOVEMBER 24, 2023**

BETWEEN

VIJAY MORJARIA PLAINTIFF

AND

PAUL KIBET CHEBOR 1ST DEFENDANT

RAYMOND KIBON KURGOR 2ND DEFENDANT

JOSEPH SITIENEI ROTICH 3RD DEFENDANT

DIRECTOR OF SURVEY 4TH DEFENDANT

LAND REGISTRAR, NAKURU COUNTY 5TH DEFENDANT

ATTORNEY GENERAL 6TH DEFENDANT

RULING

1. Vijay Morjaria hereinafter referred to as the plaintiff has come to this court against the Director of Survey, Land Registrar Nakuru and the A.G and others claiming that he is the registered proprietor of Nakuru Municipality/Block 17/308. He has the certificate of ownership of the property and he is in possession of the property.
2. He contends that the defendants have however fraudulently, corruptly and illegally caused a resurvey of the land, amendment of the Registry Index Manual and issued proper certificate of title.
3. The plaintiff prays for a declaration that the resurvey, amendment of the registry index map, issuance of lease and registration thereof in respect of Nakuru Municipality Block 17/308 were all tainted by fraud illegality and corruption.
4. He prays further that the certificate of lease issued in favour of the 1st, 2nd and 3rd defendants be revoked and the register be rectified to reflect plaintiff as the registered owner of the land.



5. He seeks an order of permanent injunction restraining the defendants whether acting jointly, singularly, in concert, through their agents, servants employees or any other person acting at their behest from entering, remaining or in any other way interfering with the plaintiff's possession and ownership of the parcel of land known as Nakuru Municipality Block 17/308. Lastly, he seeks damages for trespass against the 1st, 2nd and 3rd defendants plus costs of the suit.
6. By Notice of Motion dated 17th October 2023 the plaintiff prays for a temporary injunction against the defendant from entering, remaining cultivating or interfering with the same pending hearing of the suit.
7. I have considered the facts on record and do find that there are two titles in respect of the suit property. The plaintiff's title was issued first and therefore he has a prima facie case with a likelihood of success.
8. The plaintiff is in possession of the land and therefore if evicted, he is likely to suffer irreparable loss. The balance of convenience revolves on maintaining the status quo in terms of possession.
9. Ultimately, I do grant a temporary injunction against the defendants from entering remaining, cultivating, interfering with the suit property pending the hearing of the suit. Cost in the suit.

RULING DATED SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 24TH DAY OF NOVEMBER, 2023.

A O OMBWAYO

JUDGE

