



**Lepish & another v Lepish (Environment & Land Case E055 of 2021)
[2023] KEELC 21526 (KLR) (15 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21526 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E055 OF 2021
MN GICHERU, J
NOVEMBER 15, 2023**

BETWEEN

JOSEPH NALUTORI LEPISH 1ST PLAINTIFF

CHRISTOPHER TOPOIKA LEPISH 2ND PLAINTIFF

AND

KEVIN KOITALEL LEPISH DEFENDANT

RULING

1. This ruling is on the way forward in this matter following the dismissal of the Plaintiffs application for injunction on 17/3/2022. The dismissal followed the revelation by the Defendant that there is succession cause no 95 of 2015 and also no 68 of 2018 pending at the High Court both of which relate to the subject matter herein, that is to say, L.R. Kajiado/Kitengela/27282.
2. The second revelation is that the Defendant is already in occupation of the suit land yet the main prayer *vide* paragraph 13(a) of the plaint is to restrain him from entering the suit land among other prayers.
3. Even though the Plaintiff was to file written submissions by 30/9/2023, as I write this ruling in late October, I have not received any such submissions. Counsel for the Defendant in his submissions dated 6/4/2023 urges that the suit be stayed pending the outcome of the two pending succession causes. He has cited the authorities of *Vijay Kumar Mandal v Rajinder Kumar Mandal* (2022) eKLR and *Christopher Ndolo Mutuku v CFC Stabic Bank Limited* (2015) eKLR both of which dealt with the question of stay of proceedings.
4. I have carefully considered the entire record and the submissions by learned counsel for the Defendant. I am guided by the *Constitution* which provides that justice shall not be delayed at Article 159. We also have Sections 1A and 1B of the *Civil Procedure Act* which provides for expeditious resolution of Civil Disputes.



Finally, we have Section 3(1) of the *Environment and Land Court Act* which specifically provides that land cases be heard expeditiously. This suit was filed on 8/9/2021. It has started its third year in court. If it were stayed, we do not know for how much longer it would keep pending. Staying the suit would therefore defeat the three provisions of the *Constitution* and statute outlined above.

5. For the above stated reasons, I direct that the Plaintiffs prosecute their case with speed or withdraw it. Pre trial conference on 20/3/2024, Plaintiffs to fully comply by filing all their evidence by 20/12/2023. Defendant to close pleadings by 29/2/2024.

DATED, SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 15TH DAY OF NOVEMBER, 2023.

M.N. GICHERU

JUDGE

