



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**MISCELLANEOUS CIVIL APPLICATION NO. 15 OF 2016**

**IN THE MATTER OF: THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT NO. 3 OF 2003  
& THE ETHICS AND ANTI-CORRUPTION COMMISSION ACT, 2011;**

**AND**

**IN THE MATTER OF: AN APPLICATION BY THE ETHICS & ANTI-CORRUPTION  
COMMISSION FOR AN ORDER UNDER SECTION 56 (1) OF ANTI-CORRUPTION AND  
ECONOMIC CRIMES ACT, NO.3 OF 2003 TO PROHIBIT THE TRANSFER OR DISPOSAL OF OR  
OTHER DEALINGS WITH THE PARCEL, OF LAND KNOWN AS NO. EX-LEWA SETTLEMENT  
SCHEME/719 WHICH PROPERTY IS ALLEGED TO BE PUBLIC LAND UNLAWFULLY  
ALIENATED FOR PRIVATE USE.**

**BETWEEN**

ETHICS AND ANTI-CORRUPTION COMMISSION.....APPLICANT

**VERSUS**

IBRAHIM MUTHOGA.....1ST RESPONDENT

GODFREY KAMITI.....2ND RESPONDENT

AKWARU M' LINTARE.....3RD RESPONDENT

*(The 1st, 2nd & 3rd Respondents are sued in their capacity as the officials of Buuri Cattle Dip Self Help Group).*

**RULING**

1. This suit was brought to Court under the Anti corruption and Economic Crimes Act, In its application, the Commission sought orders that:-

***(1) This application be certified as urgent and deserving to be heard on priority basis.***

***(2) This Honourable Court be pleased to prohibit the Respondents by themselves, their agents, servants, associates and any other person with a private interest in the parcel of land known as EX-LEWA SETTLEMENT SCHEME/719 and registered in favour of Buuri Cattle Dip Self Help Group from selling, alienating, transferring, charging, sub-dividing, taking possession, developing or in any similar manner dealing with the said parcel of land (EX-LEWA SETTLEMENT SCHEME/719) for a period of six (6) months.***

**(3) The costs of this Application be in cause.**

2. The application was supported by the affidavit of Leonard Mungai and has the following grounds: -

**(1) THAT parcel of land in question, EX-LEWA SETTLEMENT /719, is a public utility which is said to have been fraudulently, corruptly and/or unlawfully alienated to private individuals, Buuri Cattle Dip Self Help Group.**

**(2) THAT preliminary investigations have revealed that the property was set apart as a public utility, a cattle Dip.**

**(3) THAT preliminary investigations have further revealed that the respondents and the other members of the Self Help Group mentioned in paragraph (1) above have began the process of sub-dividing the parcel of land herein with a view of effecting private developments thereon.**

**(4) THAT the applicant, in exercise of its mandate under Section 11 (1) (j) of the Ethics & Anti-corruption Commission Act, 2011, is desirous of conducting further investigations to establish the property of the alienation of the public utility herein individuals and if, need be, recovering it.**

**(5) THAT the applicant is apprehensive that unless the orders sought are granted the Respondents and the other members of the group the respondents represent may deal or continue dealing with the property in a manner which is prejudicial to the outcome of the intended investigations.**

**(6) THAT this court has power , under Section 56(1) of Anti-Corruption & Economic Crimes Act, 2003 to grant the orders sought.**

**(7) THAT no prejudice will be occasioned on the respondents if the orders sought are granted.**

**(8) THAT it is just and expedient that the orders sought be granted for a period of 6 months to enable investigations into the circumstances leading to alienation of the public utility herein to private individuals.**

3. On 23/11/2016, the parties proffered a consent which they asked the Court to adopt as its order

4. The application was in the following terms;

**CONSENT**

**“By Consent Meru E&L Misc. Civil Application No. 15 of 2016 be marked as settled”.**

5. The consent is adopted as an order of this Court.

6. New issues concerning the parties will be canvassed in Meru ELC No. 285 of 2016.

7. Matters in this suit are marked settled.

8. The file stands closed.

9. There is no order as to costs.

10. It is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 23RD DAY OF NOVEMBER, 2016 IN THE PRESENCE OF :-**

C A: James

Kyeli for Applicant

Edwin Kimathi for the Respondent

**P.M. NJORGE**

**JUDGE**