



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
LAND AND ENVIRONMENTAL DIVISION
ELC CIVIL SUIT NO. 1257 OF 2014 (O.S)

JOHN OTIENO OBADE & 299 OTHERS..... APPLICANTS

VERSUS

**TERESIA WAIRIMU KIRIMA & ANNE WANGARI KIRIMA (Sued as administrators
of the estate of the GERISHON KAMAU KIRIMA).....RESPONDENTS**

RULING ON DIRECTIONS

Following agreement by all the parties involved in the cases that relate to and touch on the parcels of land **L.R. NOS. 5908/8 and 6852/2** claimed by the Estate of **Gerishon Kamau Kirima (deceased)** and in which the various parties in the several suits claim varying interests the court directed that all these files be mentioned on 26th February 2015 for pretrial directions. Among the files that were availed were ELC 509 of 2014 **Naridai Muoroto Self Help Group –vs- James Gatundu & 6 others**, ELC NO. 850 of 2014 **Paul Ndungu Kioi –vs- Lawrence Kimondo Mutua & another** ELC 1318 of 2013 **Teresia Wairimu Kirima –vs- Father Romea & Another**, and **Teresia Wairimu Kirima –vs- Virginia Mwangi & 2 others**.

The parties Advocates addressed the court generally and there was general agreement that for expediency and management purposes all the suits should be heard together. The parties deliberated and agreed on the issues that were to be submitted for trial and determination by the court be set to enable the court to have a structured hearing in view of the number of parties involved. It was agreed that the court having heard the parties counsels, should issue directions setting out modalities for the trial preparations and also setting out the issues to be submitted for trial and generally for the conduct of the parties while the proceedings are ongoing. The court accordingly issues directions in the following terms.

1. That all the suits that touch and concern a claim and/or interest in the parcels of land registered in the names of **Gerishon Kamau Kirima (deceased)** and **John Gerishon Kirima being L.R. NOS. 5908/8 and 6852/2** be heard together and that **ELC NO. 1257 of 2014 John Otieno Obade & 299 others –vs- Teresia Wairimu Kirima** be the lead file for purposes of recording of the evidence and the proceedings. That at the conclusion of the hearing the court will prepare one judgment which will deal with all the cross cutting issues touching on all the claimants and the respondents in the various cases and such judgment will apply and bind all the parties in all the cases.

2. That all the parties counsel will prepare and submit to the court a schedule of all the affected suits showing who the respective parties in the various cases are. This schedule shall be lodged with the court

within 15 days from the date of this ruling on directions.

3. That the parties in all the respective suits will within 15 days of this ruling on directions exchange their respective pleadings and the documents they will rely on at the trial. Within the same period the parties will submit the copies of the pleadings and documents to be held by the court under a file folder marked **“ELC 1257/2014 (Consolidated) Pleadings & Documents”**.

4. As agreed at the status conference by all the parties on 26th February 2015 all the suits will be classified as falling under distinct categories namely:-

- a. Claims arising based on alleged allotment of various plots by the defunct City Council of Nairobi,
- b. Claims arising through adverse possession;
- c. Claims through purchase from the registered owner (s),
- d. Claims of purchase by third parties from persons who claim to have purchased the land from the registered owner(s).
- e. Claim by the estate of the late **Gerishon Kamau Kirima** that they are the owners of the suit properties and are the registered proprietors.

5. That the identified claims will be isolated as the issues to be tried by the court and determinations made on the issues in the resulting judgment which will apply to all the cases with equal force.

6. That owing to the diverse claims and considering the expansiveness of the land the subject matter of the suit parties agreed that it is necessary to have the land surveyed and the various portions/parts under occupation by various groups mapped out for ease of reference. The court in the premises directs that the Director of Surveys in consultation with the representatives of the late **Kirima's** estate and the representatives of the various parties (counsels) should arrange to have a survey of the suit property carried out and the survey apart from identifying the delineation of the properties should mark the portions of the land which are presently occupied and/or settled on by the interested groups. The survey is to be carried out and a report furnished to the court on or before 31st May 2015.

To facilitate the survey the court directs that the Nairobi County Commander through the **OCPD Kayole** and **OCPD Embakasi** do provide the necessary security during the survey exercise.

The costs arising and occasioned by the survey exercise shall be met by the parties.

7. With a view to fasttracking the hearing and final determination of these suits the court fixes the suit for hearing of the cases on 22nd, 23rd, 24th, 25th and 26th June 2015 and directs that all the pretrial directions and consultations should be completed by 31st May 2015 noting that no adjournment will be allowed during the week set aside for the hearing of the cases.

8. Pending the hearing and determination of the suit the parties are directed to maintain and observe the status quo obtaining as at the date of 26th February 2015 when the parties appeared before the court. Specifically no party should engage in any further constructions, no evictions or demolitions to take place, and no new Kenya Power & Lighting Company Ltd connections, sales, allocations and/or subdivisions of any part of the suit land until the suit is heard and determined.

9. The **OCPD Kayole** and **OCPD Embakasi** are directed to ensure all the parties observe and respect the court order.

10. Parties granted liberty to apply.

Ruling dated, signed and delivered this **17th** day of **March** 2015.

J. M. MUTUNGI

JUDGE

In the presence of:

Ojienda..... For the Applicants

Fred Ojiambo Onduso..... For the Respondents