



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT KAJIADO

MISCELLANEOUS CIVIL APPLICATION NO. 013 OF 2021

WILLIAM KOIPITAT MAYON.....APPLICANT

-VERSUS-

P.TONUI (KAJIADO LAND REGISTRAR)RESPONDENT

RULING

This ruling is on the Notice of Motion dated 24/2/2021. It seeks to commit the Land Registrar Kajiado, Mr. P. Tonui, to jail for six months for failure to comply with a Court Order dated 25th June, 2019 which required him to register land parcels KAJIADO/KAPUTIEI/1844-49 and 2144-5 in the name of the applicant instead of Lucas Daudi Muthamia, James Mugambi, Reuben Saruni Ole Nakiso, Liner Chebet and Joseph Mulinge Munguti.

The application is supported by an affidavit sworn by the applicant, William Koipatat Mayon in which he reiterates the above.

The application is under **Sections 1A, 1B, 3A**, of the **Civil Procedure Act, Order 51 Rule 1 Civil Procedure Rules** and **Section 5** of the **Judicature Act** and all other enabling provisions of the law.

In brief, the Applicant was the successful litigant in Kajiado Environment and Land Court 917 of 2017 where he was decreed to be the new owner of the nine (9) suit parcels through adverse possession.

The Respondent Paul K. Tonui swore a replying affidavit dated 26/5/2021 in which he says that some of the parcels in question had been registered in the names of persons who were not parties to the suit before Kajiado ELC 917/2017 was filed.

He gave the breakdown as follows;

- i. L.R. 1846 – registered in the name of Reuben Saruni Ole Nakuo on 29/9/92
- ii. L.R 1847 – Registered in the name of Orienza Enterprises on 20/5/2014
- iii. L.R. 1848 – Registered in the name of Daniel Onyango Obau on 29/5/2013
- iv. L.R. 1849 – Registered in the name of Shilla Chepkoech Chebet on 10/6/2015
- v. L.R. 2145 – Registered in the name of Shilla Chepkoech Chebet on 10/6/2015.

Secondly, the applicant is said to be notorious in suing through originating summons like he did in Nairobi ELC 123 of 2013 against his own neighbours whom he failed to serve as a result of which the proceedings were set aside.

Annexed to the replying affidavit are copies of the register of the five parcels as well as a copy of ruling dated 20th January, 2017 in Nairobi ELC NO. 123/2013.

For the above reasons, the Respondent prays that the Court Orders a site visit to the affected parcels. This visit will resolve the issue of status quo of the remaining parcels otherwise parties who are not in this suit will be adversely affected by the implementation of the Court Order herein.

Counsel for the parties filed written submissions on 29/10/2021 and 21/1/2022.

I have carefully considered the application in its entirety including the affidavits, annexures and submissions.

I find that there may be an error apparent in the face of the record in ELC 917 of 2017 regarding parcels KAJIADO/KAPUTIEI/1846, 1847, 1848, 1849 and 2145 which are clearly registered in the names of persons who are not parties to the suit.

The order dated 28th June 2019 is not implementable as it is. I dismiss the application dated 24/2/2021.

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 23RD DAY OF FEBRUARY, 2022

M.N. GICHERU

JUDGE