



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KITALE
ELC. NO.58 OF 2014
TURBO MUNYAKA CO-OPERATIVE SOCIETY LTD.....RESPONDENT
VERSUS
JOSEPH MBUGUA HOSEA.....APPLICANT

RULING

1. The applicant brought a notice of motion dated 30.1.2015 in which he seeks review of the order of this court given on 30.9.2014. The applicant contends that there is an error apparent on the face of the record. The applicant further contends that there is a related case in the lower court where he obtained an order restraining the respondent from interfering with the suit land and that in this present case, the respondent has obtained orders restraining him from interfering with the suit land.
2. The application is opposed based on grounds of opposition filed by the respondent on 23.4.2015. The respondent contends that the applicant's application is incompetent and fatally defective. The respondent also contends that the application has been brought after inordinate delay and that the same is an abuse of the process of the court.
3. I have considered the applicant's application as well as the grounds of opposition and submissions by the counsel for the applicant. The orders which the applicant seeks to have reviewed were given on 30.9.2014. This application was filed on 30.1.2015. The application was made four months after the said orders were made. In the absence of any explanation as to why the same was not made in good time, I find that the delay to bring this application promptly was unreasonable in the circumstances.
4. The applicant contends that there is an error apparent on the face of the record. No such error was pointed out. The applicant has instead claimed that he obtained an injunction against the respondent in the lower court. I have gone through the annexures to the applicant's application. I cannot see any evidence of injunction issued against the respondent. The case in the lower court was between the applicant and Onesmus Gichiri Njoroge as an individual. The suit was never against the respondent as a society. In any case even if there was an injunction issued in favour of the Applicant, the same can neither amount to an error apparent on the face of the record nor a ground for review of the orders of this court given on 30.9.2014.
5. I find that the applicant's application is misconceived. The same is hereby dismissed with costs to the respondent.

It is so ordered.

Dated, signed and Delivered at Kitale on this 17th day of June, 2015.

E. OBAGA

JUDGE

In the presence of Mr. Chebii for applicant and Mr Kisa for Respondent. Court Clerk - Isabellah.

E. OBAGA

JUDGE