



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

JUDICIAL REVIEW NO. 39 OF 2013

MARTIN MUNENE WANGARA APPLICANT

VERSUS

THE CHAIRMAN MWEA LAND DISPUTES TRIBUNAL & 2 OTHERS DEFENDANTS

RULING

This is in respect to the applicant's application dated 4th September 2013 seeking the following substantive prayers:-

1. *Spent*
2. *That the orders of 23rd February 2007 to the effect that “leave was to operate as a stay of the award and the status quo regarding parcel No. MWEA/TEBERE/B/61 be maintained” be lifted and vacated*
3. *This Court do order the Land Registrar Kirinyaga to lift all encumbrances over land parcel No. MWEA/TEBERE/B/61*
4. *Costs be provided for.*

The application was based on the grounds, inter alia, that the order for leave to operate as a stay and status quo over the land Mwea/Teber/B/61 had been granted in a Judicial Review application formerly Nairobi High Court Misc Application No. 132 of 2007 which was later to become Embu High Court Misc Application No. 61 of 2010 which was withdrawn by consent and the parties proceeded in Kerugoya E.L.C Case No. 278 of 2013 in which judgment was entered in favour of the defendants (applicant herein) and that judgment cannot be implemented in view of the orders regarding status quo. The application was supported by the affidavit of Martin Munene Wangara and was not opposed.

I have considered the application and also looked at the record herein. It is clear that on 23rd February 2007 when Justice Wendoh granted leave in this Judicial Review application, she also directed that the leave do operate as a stay of the award and status quo regarding land No. MWEA/TEBERE/B/61. That Judicial Review application was withdrawn by the consent of the parties who elected to pursue their claims in Kerugoya ELC No. 278 of 2013 in which judgment was delivered on 26th August 2013 in favour of the defendants one of who is the applicant herein. The Court has not been informed if there has been any appeal preferred against that judgment and this application is un-opposed. Clearly, the judgment of this Court in KERUGOYA ELC No. 278 of 2013 cannot be enforced while the stay orders remain in place. It is also important that all encumbrances over the said land parcel No. MWEA/TEBERE/B/61 are lifted in order to facilitate the orders given

in KERUGOYA ELC No. 278 of 2013.

I therefore find that the application dated 4th September 2013 is merited and I grant it with no order as to costs.

B.N. OLAO

JUDGE

28TH OCTOBER, 2013

28/10/2013

Coram

B.N. Olao – Judge

CC – Muriithi

Ms Thungu for Appellant present

No appearance for Respondent

COURT: Ruling delivered this 28th day of October 2013 in open Court

Ms Thungu for applicant present

B.N. OLAO

JUDGE

28TH OCTOBER, 2013