



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ELDORET
CIVIL CASE 195 OF 2007

EMILY JEPKEMBOI KOGO PLAINTIFF

VERSUS

PATRICK KORIR DEFENDANT

RULING:

The Application is brought under the provisions of Order 45 Rules 1, 2 and 3 of the Civil Procedure Rules and Sections 1A, 3, 3A and 80 of the Civil Procedure Act and all other enabling provisions of the law.

The Applicant seeks to review and or set aside the ruling and Order of this Court dated 23rd November, 2011 and instead make an Order adopting the Applicant's Valuation Report prepared by Prime Valuers Limited as it is a more accurate Report on the issue of costs and development on parcel land No. TULWET/LESSOS/BLOCK 3 (Nandet/34).

The Applicant avers that the Court made an error in not considering the Valuation Report made and prepared by Prime Valuers Limited which was an accurate reflection on the value and costs of developments on the aforementioned parcel of land.

The Applicant argued that the Valuation prepared by M/s. Highland Valuers Limited was excessive and exaggerated and not a true reflection of the costs for the temporary structures on the said parcel of land.

In conclusion the Applicant submitted that the Court failed to give reasons which it took into consideration when it arrived at the decision awarding the Respondent the sum of Kshs. 250,000/= as the costs for developments.

The Applicant prayed that the Court do review its orders in the interest of justice, equity and fair play.

The Application was strenuously opposed by the Respondent who was also aggrieved with the said amount as he had expected more.

He prayed that the application be dismissed and that he be paid the money by the Applicant to enable him to move on with his life.

When the parties appeared before this Court on 23rd November 2011 and presented both the Valuation Reports, this Court afforded both parties an opportunity to obtain a further valuation report from an independent Valuer, like the Government Valuer, as the Court was of the opinion that both the Valuation Reports prepared the litigants were exaggerated, one being on the lower side and the other on the higher side.

Both the parties developed a hard line stance leaving the Court with no option but to adopt a middle ground. The Court stands by the Order made on the 23/11/2011 and Court finds that there is no error apparent on the face of the record and the Court finds that no good reasons have been adduced by the Applicant to warrant a review of the Order made by this Court on the 23rd November 2011.

The application is without merit and is hereby dismissed. Each party to bear their own costs.

Dated and delivered at Eldoret this 20th day of July 2012.

**A.MSHILA
JUDGE**

Coram: Before Hon. A. Mshila J
CC: Andrew

Counsel for the Plaintiff/Applicant : Mainga

Defendant/Respondent in person.

**A.MSHILA
JUDGE**