



Githima Limited v National Land Commission & 5 others (Environment & Land Case 305 of 2015) [2022] KEELC 2927 (KLR) (22 June 2022) (Ruling)

Neutral citation: [2022] KEELC 2927 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT & LAND CASE 305 OF 2015**

M SILA, J

JUNE 22, 2022

BETWEEN

GITHIMA LIMITED PLAINTIFF

AND

NATIONAL LAND COMMISSION & 5 OTHERS DEFENDANT

RULING

1. This suit was commenced through a plaint dated 16 March 2010 which has now been amended twice. In the further amended plaint, the applicant avers to be the registered proprietor of the land parcels No. 5361 and 5362, Section I, Mainland North, which are front row beach plots, and the land parcels Nos. 5364, 5365, and 5366, Section I, Mainland North, which are second row plots. It is averred that on the frontage of the applicant's front row plots lies a strip of land reserved as a public utility and was not available for alienation. It is pleaded that on 20 March 2009, the 1st defendant illegally issued a letter of allotment to this strip of land to one Mehasani Hatibu Mwinjihaji, the 3rd defendant, and subsequently issued title with the land delineated as LR No. 12425/1/MN. It is said that the title was later transferred to the 4th defendant. In this suit, the applicant wants this title cancelled.
2. Through an application dated 15 January 2018, the plaintiff inter alia sought orders to have the Land Registrar, Mombasa, to be compelled to issue the plaintiff with an official search in respect of the title MN/I/12425. On 24 July 2018, the court (Omollo J) allowed this prayer and issued an order to the Land Registrar to provide the plaintiff with an official search within 30 days. In default, he was to attend court to show cause. It appears that no search was ever issued and the plaintiff invoked the order for the Land Registrar to show cause why he should not be arrested and committed to civil jail. The matter first came up before me on 16 June 2021 when Mr. Makuto, learned State Counsel, stated that he had contacted the Land Registrar, a Mr. Mwangi, who informed him that he was yet to trace their records. He stated that an affidavit would be filed. I directed that the said affidavit be filed in 21 days. The matter next came up on 10 November 2021 and it emerged that no affidavit to explain the position



had been filed. I issued summons to the Land Registrar, Mombasa to attend court on 21 February 2022. I did not sit on 21 February 2022 and the next time the matter came up was on 9 June 2022. The position remained the same.

3. This court has already issued an order to the Land Registrar, Mombasa, to issue to the plaintiff a search regarding the title 12425 Section I, Mainland North. No search has been issued and no explanation given why the Land Registrar, Mr. Mwangi, has not complied with the order.
4. I now order Mr. Mwangi to attend court on 12 July 2022 with the official search and the parcel file to the land registered as 12425 Section I, Mainland North, or else explain why he doesn't have these documents.
5. Orders accordingly.

DATED AND DELIVERED THIS 22 DAY OF JUNE 2022

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT

AT MOMBASA

