



REPUBLIC OF KENYA



**Dabo v Noor & 6 others (Environment & Land Case 010 of 2021)  
[2022] KEELC 3103 (KLR) (13 June 2022) (Ruling)**

Neutral citation: [2022] KEELC 3103 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO  
ENVIRONMENT & LAND CASE 010 OF 2021  
PM NJOROGE, J  
JUNE 13, 2022**

**BETWEEN**

**DIBA HUSSEIN DABO ..... PLAINTIFF**

**AND**

**MOHAMMED NOOR ..... 1<sup>ST</sup> DEFENDANT**

**DIKA ABUKUL ..... 2<sup>ND</sup> DEFENDANT**

**HASSAN ABDI NOOR ..... 3<sup>RD</sup> DEFENDANT**

**HALAKE GALGALO ..... 4<sup>TH</sup> DEFENDANT**

**ABDI HALIQ HASSAN ..... 5<sup>TH</sup> DEFENDANT**

**MOHAMED ABDI KADIR ..... 6<sup>TH</sup> DEFENDANT**

**ABDI NASSIR HASSAN ..... 7<sup>TH</sup> DEFENDANT**

**RULING**

1. On June 13, 2022 Mr Wanjohi, the advocate for the plaintiff informed the court that in the ruling delivered on February 7, 2022, the ruling only cited the 1<sup>st</sup> defendant Mohamed Noor and left out the other defendants. He asked the court to ameliorate the unintended oversight.
2. I hereby reproduce the ruling dated February 7, 2022 and adopt it as the court ruling re-delivered today.

**Ruling**

1. This application is dated August 16, 2021 and seeks the following orders;
  1. That this application be certified as urgent and service hereof be dispensed with in the first instance.



2. That pending hearing and determination of this application *inter partes*, this honourable court be pleased to issue an order of temporary injunction restraining the defendants/respondents by themselves, their servants or agents or anyone claiming under them and/or from them, from entering, trespassing, and or interfering with the plaintiff/applicant's enjoyment, use and possession of the land parcel Isiolo Township Block 1/159.
  3. That pending hearing and determination of this suit, this honourable court be pleased to issue an order of temporary injunction restraining the defendants/respondents by themselves, their servants or agents or anyone claiming under them or from them, from entering, trespassing, and or interfering with the plaintiff/applicant's enjoyment, use and possession of the land and parcel Isiolo Township Block 1/159.
  4. That the OCS Isiolo Police Station to ensure compliance with orders 2 and 3 above.
  5. That the costs of this application be provided for.
2. The application is supported by the affidavit of Diba Hussein Dado, the plaintiff/applicant sworn on August 16, 2021 and has the following grounds
- a) That the plaintiff/applicant is the legally registered owner of the parcel of land known as Isiolo Township Block 1/159 having purchased the same in 2013 from the registered owner Moses Kiriimi Mbogori.
  - b) That the plaintiff/Applicant obtained a certificate of Lease for the suit property on October 24, 2015, and has since then enjoyed peaceful and quite (sic) use and occupation of the suit property.
  - c) That sometimes in 2019 the defendant/respondent's, without any color of right, trespassed onto the suit property and begun claiming ownership.
  - d) That the plaintiff/applicant lodged a complaint with the CID of Isiolo and the defendants/respondents were arrested and charged with the offence of forcible detainer in Isiolo Chief Magistrate Court Criminal Case no 385 of 2019, which is still pending
  - e) That despite being charged in court, the defendants/respondents have continued with their acts of trespass and illegal occupation of the plaintiff/applicant's land and have even begun to sell portions thereof to third parties
  - f) That the actions of the defendant/respondents are in gross violation of the plaintiff/applicant's right to ownership of private property recognized and protected under article 40 of the [Constitution](#) of Kenya 2010
  - g) That the plaintiff/applicant being the duly owner of the suit property has a *prima facie* case with high chances of success
  - h) That if the injunction sought in not granted the plaintiff/applicant stands to suffer irreparable harm which cannot be compensated by way of damages
    - i) That in the absence of any documents to prove ownership of the suit property by the defendant/respondent, the balance of convenience tilts in favor of the plaintiff/respondent



3. In my ruling dated November 22, 2021, I noted that the defendants were aware of that today's proceedings but did not come to court. I also accept the plaintiff's advocate's statement that they were aware of today's proceedings but they again did not come to court.
4. In the above circumstances, this court deems the application as having been heard and determined and the following orders are issued:
  - a) Prayers 1 and 2 are spent.
  - b) Prayer 3 and 4 are granted.
  - c) The plaintiff is allowed to serve the defendants by way of substituted service.
  - d) Costs for this application are awarded to the plaintiff
  - e) Directions on February 31, 2022
  - f) The plaintiff to serve the orders issued by the court today upon the defendants.

**DELIVERED IN OPEN COURT AT ISIOLO THIS 7<sup>TH</sup> DAY OF FEBRUARY, 2022**

**in the presences of:**

**Court assistant – Denge**

**Wanjohi for the plaintiff**

**HON JUSTICE P M NJOROGÉ**

**ELC JUDGE**

**3. I also grant Mr Wanjohi, the plaintiff's advocate 21 days to serve the orders issued by the court today upon the OCS Isiolo and copy them upon the OCPD Isiolo.**

**4. The plaintiff and advocate is directed to serve the orders issued today upon the defendant within 10 days of today.**

**5. All parties to come to court for directions on July 25, 2022.**

**Written and delivered in open court at Isiolo this June 13, 2022 in the presence of:**

**Court assistant: Balozi**

**Wanjohi for the plaintiff**

**HONOURABLE JUSTICE P M NJOROGÉ**

**JUDGE**

