



REPUBLIC OF KENYA



KENYA LAW
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**Sang & another v Rop (Environment & Land Case 139 of 2016)
[2022] KEELC 12661 (KLR) (29 September 2022) (Ruling)**

Neutral citation: [2022] KEELC 12661 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT & LAND CASE 139 OF 2016
EO OBAGA, J
SEPTEMBER 29, 2022**

BETWEEN

CHRISTOPHER KIPTALAM SANG 1ST PLAINTIFF

CECILIA JEROTICH KIRUI 2ND PLAINTIFF

AND

JOSEPH KIPCHUMBA ROP DEFENDANT

RULING

1. This is a ruling in respect of a notice of motion dated April 11, 2022 in which the applicants seek review of the orders of this court which were given on November 25, 2021 and that the court do deliver a ruling in respect of notice of motion dated February 8, 2021.
2. Though the respondent was given time to put in a replying affidavit and submissions, he neither filed a replying affidavit nor filed written submissions. The application by the applicant therefore proceeded ex-parte.
3. I have considered the applicant's application together with the written submissions. As I said in the ruling which is subject of review, the confusion in this matter is as a result of cases pending in court for long without being prosecuted and partly because of advocates not doing their role of assisting the court to administer justice.
4. The proceedings herein had been stayed by Lady Justice (Dr) Odeny on October 31, 2017 pending the hearing and determination of objection proceedings which had been filed by the respondent in High Court succession cause No 158 of 2014. The objection proceedings were in the form of summons for revocation of grant issued to the applicants. A ruling was delivered in the High Court dismissing the application on November 6, 2019.



5. The counsel for the respondent later filed an application dated 8th February 2021 in which he sought injunctive orders against the applicant who were seeking to distribute the estate in terms of the grant issued to them. Unknown to the court as it was not brought to the attention of the court that the matter which led to stay of proceedings in this matter had been concluded, the court ordered maintenance of status quo while observing that the proceedings herein had been stayed. This was on February 15, 2021.
6. When I took over the conduct of this matter, I rendered a ruling which is the subject of this application for review. I was not aware that a ruling had been rendered dismissing the summons for revocation of grant issued to the applicant. In the ruling by the High Court, the judge rightly observed that the dispute as to ownership of the suit property was pending before this court and that it is this court which can determine the issue of ownership.
7. There are already orders of maintainance of status quo which were granted on February 15, 2021 which were subsequently maintained on November 25, 2021. It will be superfluous to render a ruling in respect of notice of motion dated February 8, 2021 in the face of the orders of maintainance of status quo. I therefore review the orders of November 25, 2021 to the extent that the order directing that the orders of status quo be maintained until hearing and determination of succession cause No 158 of 2014 is hereby reviewed to read that the orders of maintainance of status quo should be maintained until the hearing and determination of the present suit. There is no order as to costs. The parties should ensure that this case is expeditiously determined by ensuring that there is full compliance with order 11 of the *Civil Procedure Rules* within 30 days from the date hereof.

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 29TH DAY OF SEPTEMBER, 2022.

E. O. OBAGA

JUDGE

In the virtual presence of;

Mr. Wamalwa for Mr. Omusundi for Applicant.

Court Assistant –Albert

E. O. OBAGA

JUDGE

29TH SEPTEMBER, 2022

