



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MACHAKOS

ELC. CASE NO. 262 OF 2010

PETER MATHUKI.....1ST PLAINTIFF
GEORGE WAMAE.....2ND PLAINTIFF
SILAS OMENDA.....3RD PLAINTIFF
ANDREW NYAMWAYA.....4TH PLAINTIFF
LENAH MUTHONI MUTUA.....5TH PLAINTIFF
WILFRED KYEVA NDULU.....6TH PLAINTIFF
AGNES KASIVA KYEVA.....7TH PLAINTIFF
PHILIP NDOLO.....8TH PLAINTIFF
DOROTHY KALEKYE.....9TH PLAINTIFF
VINCENT MWIGIRUA.....10TH PLAINTIFF
DOROTHY MBANE MULONZI.....11TH PLAINTIFF

VERSUS

KINGORA ESTATES LTD.....1ST DEFENDANT
PETER G.N. NG'ANG'A.....2ND DEFENDANT

AND

SYOKIMAU FARM LIMITED.....INTENDED INTERESTED PARTY

RULING

1. In the Notice of Motion dated 11th August, 2020, the Plaintiffs have sought for the following orders:

- a. That Syokimau Farm Limited, be enjoined in this suit as an Interested Party for purposes of this Application.*
- b. That the Intended Interested Party be ordered to execute all the requisite transfer documents and in default the court to authorize the Deputy Registrar to execute the same.*
- c. That the costs of this Application be provided for.*

2. The Application is supported by the Affidavit of the 9th Plaintiff who has deponed that the Plaintiffs obtained Judgment against the Defendants on 13th April, 2018 and that they were issued with a Decree on 31st October, 2018.

3. The 9th Plaintiff deponed that the Defendants bought parcel of land known as L.R. No. 12715/502 (*the suit property*) from the Interested Party; that the mother title is still in the name of the Interested Party and that the Defendants were ordered to transfer the suit property to the Plaintiffs.

4. It is the Plaintiffs' case that they have since sub-divided the suit property and obtained Deed Plans; that the mother title of L.R. No. 12715/502 is still in the name of the Interested Party and that the Defendants cannot execute the transfer documents. The Application was not opposed.

5. This suit was commenced by way of a Plaint dated 3rd December, 2010. In the Plaint, the Plaintiffs sought for an order of specific performance for the Defendants to transfer to them their respective plots excised from title number 12715/502.

6. The court allowed the Plaintiffs' claim vide its Judgment dated 13th April, 2018. In the said Judgment, the court directed the Defendants to transfer the sub-divisions of L.R. No. 12715/502 to the Plaintiffs. However, the said title for L.R. No. 12715/502 has never been transferred to the Defendants todate by Syokimau Farm Limited, the original owners.

7. The Interested Party has not opposed the Application. Having found the Plaintiffs to be the *bona fide* owners of the sub-divisions arising from L.R. No. 12715/502, and the Interested Party having not opposed the Application, I allow the Notice of Motion dated 11th August, 2020 as follows:

a. Syokimau Farm Limited be and is hereby ordered to execute all the requisite transfer documents in respect of L.R. No. 12715/502 and the subsequent sub-divisions in favour of the Plaintiffs.

b. In default, the Deputy Registrar of this court to execute the transfer documents in satisfaction of the Judgment and Decree of this court.

c. Each party to bear his/its own costs.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 26TH DAY OF FEBRUARY, 2021.

O.A. ANGOTE

JUDGE