

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

ELC MISC. APP. NO. 2 OF 2021

JANE KANDA KIPKORIR.....APPLICANT

VERSUS

THE COUNTY LANDS OFFICER.....(TRANS NZOIA) .RESPONDENT

RULING

1. The application dated **6/1/2021** and filed in court on **14/1/2021** has been brought by the applicant under **Order Sections 1A, 1B, 3, 3A and 63** of the **Civil Procedure Act**, **Order 51 Rule 1** of the **Civil Procedure Rules** and **Section 13 and 19** of the **Environment and Land Court Act**. The applicant seeks the following orders:-

(1) That this application be certified as urgent and the same be heard *ex parte* on priority.

(2) That the county Lands Officer, Trans Nzoia be ordered to forthwith release the original title document in respect of land parcel No. 1615 Milimani Settlement Scheme.

(3) Costs be provided for.

2. The application is supported by the affidavit of the applicant sworn on **6/1/2021**. The grounds on the fact of the application are that the applicant is a holder of Power of Attorney **No. 502/10** registered on **4/5/2010**; that pursuant to the said powers the applicant filed suit in **Kitale ELC No. 86 of 2010** against **Dorcas Chebet** and Others, a decree was issued declaring the said parties trespassers thereon; that the applicant did make payments in respect of the outstanding loan, discharge of charge and title to facilitate processing of title documents and that the respondent has now refused to release the original title deed despite requests made to her. No replying affidavit was filed in response to the application. The applicant filed her written submissions on **22/2/2021**. The respondent filed no submissions.

3. I find that the applicant has not complied with the order of this court, which was not made idly, to the effect that she ought to file an affidavit of service. Consequently the application dated **6/1/2021** is hereby struck out on that ground alone. There shall be no orders as to costs.

It is so ordered.

Dated, signed and delivered at Kitale via electronic mail on this 25th day of February, 2021.

MWANGI NJOROGE

JUDGE, ELC, KITALE.