REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT MIGORI

ELC CASE NO. 72 OF 2019

JOSEPH OKELLO NYANGINJA.....PLAINTIFF/APPLICANT

VERSUS

ONE STOP SUPERSTORES LIMITED.....1ST RESPONDENT

JEREMIAH O. SOIRE t/a SOIRE AND

COMPANY ADVOCATES.....2ND RESPONDENT

RULING

1. The present determination is with regard to a request reference number TOK/047/JON/RD-96 dated 15th February 2021 initiated by Mr. Tom O. K'Opere, learned counsel for the plaintiff/applicant, Joseph Okello Nyanginja. Principally, he is seeking that ;-

> ***" The directions given on 10/02/2020 be reversed and the court gives fresh directions on thehearing of the originating summons dated 27th September 2019.***

2. The originating summons is mounted under Order 37 Rule 3 and Order 52 Rule 7 of the Civil Procedure Rules,2010 for determination of issues 1,2 and 3 set out on it's face. The said Orders, Rules, and issues are noted herein.

3. It is discerned from the originating summons as well as the replying affidavit thereto sworn on 30th October 2019, that the instant dispute concerns the payment of **Kshs. 518,282.00** over the title to land reference number Central/ Kasipul/Kamamu 6925 (the suit land). In view of Order **37 Rule 3 and Order 52 Rule 7 (supra),** section 13 of the Environment and Land Court Act, 2015 (2012) as well as Article 162 (2) (b) of the Constitution of Kenya,2010 and the Supreme court of Kenya decision in **Republic =vs= Karisa Chengo & Others (2017) eKLR**, the dispute falls within the jurisdiction of this court.

4. A fortiori, pursuant to sections 1A,1B,3,3A and 18 of the Civil Procedure Act (Cap 21 Laws of Kenya) and section 3 of the Environment and Land Court Act, 2015 (2012), it is hereby ordered and directed thus:-

> ***a) This court's orders and directions given on 10th February 2021 be and are hereby revoked.***
>
> ***b) The originating summons fixed for pre-trial directions before this court on 10th March 2021.***
>
> ***c) The plaintiff/applicants' counsel to serve the respondents within the next seven (7) days from this date.***

DELIVERED, DATED and **SIGNED at MIGORI this 18th day of February, 2021**

G.M.A. ONGONDO

JUDGE

In presence of ;-

Tom Maurice - Court assistant