

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC MISCELLANEOUS CASE NO. E001 OF 2021

TIGANIA DAVID MWIRIGA1ST APPLICANT

MUGAMBI DAVID.....2ND APPLICANT

VERSUS

SUB COUNTY SURVEYORS THARAKA NITHI COUNTY.....1ST RESPONDENT

DISTRICT LAND REGISTRAR THARAKA NITHI COUNTY....2ND RESPONDENT

RULING

1. The Chamber Summons in this matter is dated **6th January, 2021** and seeks leave to apply for orders, of inter alia, mandamus and several declarations that the court finds the constitutional rights of the applicants have been violated.
2. The application in its prayer 2 seeks an order of mandamus to compel the Officer Commanding Police Division (OCPD), Chuka, to help in enforcing the orders to be issued by the court.
3. The applicants do not say that their application is a Constitutional Petition. They also do not directly state that their application constitutes Judicial Review Proceedings. Whereas the court can grant prayer 1(a) for leave to apply for an order of mandamus, it cannot grant prayer 2 and issue an order of mandamus directed to the OCPD, Chuka at this stage. From the way it is framed, this application constitutes prayers which evince a veritable contradiction in terms. It is an oxymoron! Especially for prayer 2, no leave to apply for it had been obtained.
4. The applicants may consider filing a proper application in court.
5. In the circumstances:
 - a) This application stands dismissed.
 - b) No costs are awarded.

Delivered in open court at Chuka this **15th day of February, 2021** in the presence of:

CA: Ndegwa

Miss Materu for the applicants

HON. JUSTICE (Dr.) P. M. NJOROGE,

ELC JUDGE.