



**Luis v Mwangi & another (Environment & Land Case 185 of 2016)
[2025] KEELC 450 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 450 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 185 OF 2016
A OMBWAYO, J
FEBRUARY 6, 2025**

BETWEEN

TAHIRA BEGUM LUIS PLAINTIFF

AND

PETER MUCHIRI MWANGI 1ST DEFENDANT

**THE HON. ATTORNEY GENERAL OF THE REPUBLIC OF
KENYA 2ND DEFENDANT**

RULING

1. Tahira Begum Luis hereafter referred to as the plaintiff has come to this court by Notice of Motion against Peter Muchiri Mwangi, The Hon. Attorney General of the Republic of Kenya and the District Land Registrar, Nakuru hereinafter referred to as the defendants seeking orders that this Honorable Court be pleased to- order the 3rd Defendant/Respondent to place in safe custody and/or deposit into Court for safe custody, the original deed File including the Green Card and all other records held by the 3rd defendant/Respondent to in respect of Title Number Nakuru/Piave Settlement Scheme 1057.
2. Moreover, that the Honorable Court be pleased to order the 3rd defendant/respondent to issue the Plaintiff/Applicant with a current search in respect of Title Number Nakuru/Piave Settlement Scheme/1057 and certified copies the Green Card and extracts of all other records held by the 3rd Defendant in its file in respect of title Number Nakuru/Piave Settlement Scheme/1057. Honorable Court be pleased to issue any further orders as it may deem fit in the circumstances as shall meet the ends of justice. The applicant seeks costs of this application.
3. The application is based on affidavit of Tahira Begum Luis, the applicant herein and grounds that the Honorable Court (Hon. Lady Justice Lynette Omollo) delivered Judgment in this matter on 8th February, 2024 in which the Court declared inter alia that the Title Deed issued to Vincent Aghostinho Rafael Luis by the Land Registrar on 17th July, 1987 is the legitimate, bona fide and



genuine documents of title in respect of Title Number Nakuru/Piave Settlement Scheme/10571. The Court further issued an order of permanent injunction restraining the 1st Defendant, his agents; servants and/or employees from trespassing into cultivating, constructing upon or in any other form whatsoever -interfering with the Plaintiff's quiet possession and enjoyment of the property comprised in the aforesaid parcel of land.

4. Being aggrieved by the said Judgment, the Defendant herein filed an Appeal before the Court of Appeal challenging the whole of the said Judgment* being Nakuru Civil Appeal No, E053 of 2024 and pending the hearing and determination of the aforesaid appeal, the 1st defendant filed various applications before this Court and before the Court of Appeal seeking a stay of Judgment pending the hearing and determination of his Appeal but both Courts declined to stay the ELC Court Judgment delivered on 8th February, 2024.
5. Pending the hearing and determination of the aforesaid Nakuru: Civil Appeal No. E053 of 2024, there has now emerged a new Title Deed in, respect of the same parcel of land; Title Number Nakuru/Piave Settlement Scheme/1057 allegedly held in name of John Kibet Ritich who is unknown to the Plaintiff herein and unscrupulous persons unknown to the Plaintiff are using the said title to send prospective and/or interested Purchasers to visit and inspect the suit property on the basis that the land is being offered for sale, thereby interfering with the Plaintiff's peaceful and quiet enjoyment of the property and comprising the Plaintiff's personal security.
6. Efforts by the Plaintiff through her authorized Agents to conduct a due diligence search on her title and to inspect the register and obtain copies of records held at the Nakuru District Land Registry have been frustrated by the 3rd Defendant who has informed the Plaintiffs Agents that the Deed File and copies of records in respect of the suit property cannot be traced and the Plaintiff is now unable to obtain a search and/or copies of records held by the 3rd Defendant in respect of her Title Number Nakuru/Piave Settlement Scheme/ 1057.
7. Ironically, the original Deed File and copies of records in respect of the suit property were recently available and the plaintiff was able to access them and obtained a search and copies which the Plaintiff used in prosecuting her case in ELC Case No. 185 of 2016 and it is baffling the records cannot now be traced by the 3rd Defendant.
8. The Plaintiff is reasonably apprehensive that there could be intentions by unknown persons working on their own and/or in cahoots with the 3rd Defendant hell bent on tampering with the Green Card and other land records in respect of Title Number Nakuru/Piave Settlement Scheme/1057 with an intention to interfere with the Plaintiffs ownership of the suit property before the hearing and final determination of Nakuru Civil Appeal No. E053 OF 2024 that is currently pending before the Court of Appeal.
9. This application is not frivolous and has been brought without undue delay and is intended to protect the subject matter and the substratum of Nakuru Civil Appeal No. E053 of 2024, that is currently pending before the Court of Appeal
10. There is a high likelihood that the Green Card and other records of Title Number Nakuru/Piave Settlement Scheme/1 057 will be tampered with and/or obliterated by unknown persons hell bent on interfering with the ownership records of the aforesaid land and unless this Honorable Court intervenes and orders the 3rd Defendant/Respondent to place in safe custody and/or deposit into Court for safe custody. The original Deed File including the Green Card and all other records held by the 3rd Defendant in respect of the aforesaid property, the sanctity of this title will be undermined and/or compromised.



11. It is necessary to protect and secure the records of the suit property, Title Number Nakuru/Piave Settlement Scheme/.105'7 pending the hearing and determination of Nakuru Civil Appeal No. E053 of 2024 that is pending before the Court of Appeal.
12. No loss or prejudice is likely to be suffered by the Respondents in the event this Court exercises discretion and grants the orders sought herein above.
13. The application is not opposed and therefore I do grant orders that the 3rd Defendant/Respondent to place in safe custody and/or deposit into Court for safe custody, the original deed File including the Green Card and all other records held by the 3rd defendant/Respondent to in respect of Title Number Nakuru/Piave Settlement Scheme 1057.
14. Moreover, that the 3rd defendant/respondent to issue the Plaintiff/Applicant with a current search in respect of Title Number Nakuru/Piave Settlement Scheme/1057 and certified copies the Green Card and extracts of all other records held by the 3rd Defendant in its file in respect of title Number Nakuru/Piave Settlement Scheme/1057. There be no orders as to costs.

SIGNED BY: HON. JUSTICE ANTONY O. OMBWAYO

NAKURU ENVIRONMENT AND LAND COURT

ENVIRONMENT AND LAND COURT DATE: 2025-02-06 13:45:10

