



**Okello v Parakuo (Enviromental and Land Originating Summons  
E001 of 2024) [2025] KEELC 3632 (KLR) (8 May 2025) (Judgment)**

Neutral citation: [2025] KEELC 3632 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAROK  
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E001 OF 2024**

**LN GACHERU, J**

**MAY 8, 2025**

**BETWEEN**

**WILLIAM OMONDI OKELLO ..... PLAINTIFF**

**AND**

**MUSANA OLE PARAKUO ..... DEFENDANT**

**JUDGMENT**

1. Vide an Originating Summons dated 22<sup>nd</sup> February 2024, the Plaintiff/Applicant herein William Omondi Okello has sought for determination of the following issues; -
  - a. That this court be pleased to issue an order compelling the Defendant/Respondent to execute the transfer forms in favour of the Plaintiff in respect of Narok Cis-Mara-Oleleshwa/19699 so as 7 acres of the land can be transferred to the Applicant in line with the Judgment of the High Court in JR No. E002 of 2022 AND delivered on 12/10/2023, which upheld the Ruling of the Land Registrar delivered on 13<sup>th</sup> May 2022, and or in the alternative,
  - b. That the court do authorize the Deputy Registrar of this court to sign the transfer forms in respect of Narok Cis Mara-Oleleshwa/19699, so as 7 acres of the land can be transferred to the applicant in line with the judgment of the High Court in JR No. E002 of 2022 AND delivered on 12/10/2023, which upheld the Ruling of the Land Registrar delivered on 13<sup>th</sup> May, 2022.
  - c. That the costs of this application be in the cause.
2. The said Originating Summons is premised on the following grounds and the annexed affidavit of William Omondi Okello. Their grounds are; -
  - a. That the Applicant purchased a plot of land from the Respondent herein, namely Narok Cis-Mara-Oleleshwa/19698, and was issued with a title deed, which was cancelled by the Land Registrar for reasons best known to him.



- b. That he made a further finding that the said portion(that belonged to me) had been subdivided by the Defendant and sold to new and innocent purchasers, making it difficult to recover the same.
  - c. That after doing research, he made a finding that Plot Number Narok Cis-Mara-Oleleshwa/19699, which was a twin plot with his plot, was still in the name of the Defendant.
  - d. That he did lodge a caution against the said plot Narok Cis-Mara-Oleleshwa/19699, and the same was heard by the District Land Registrar – Narok, and a ruling delivered on the same on the 13<sup>th</sup> May, 2022.
  - e. That in the ruling delivered by the District Land Registrar Narok on the 13<sup>th</sup> May, 2022, it was decided that the Respondent owed some 7 (seven) acres of land to the Applicant comprised in P/No. Narok-Cis-Mara-Oleleshwa/16853 where the Applicant herein had lodged a caution and upon hearing the parties the Land Registrar made a decision that the caution would be removed upon 7 acres of land being transferred to the applicant.
  - f. That the Respondent filed a Judicial Review against the said decision vide Narok ELC JR No.E002 of 2022 (Republic vs The Land Registrar Narok), which was dismissed on the 12<sup>th</sup> October 2023, and which decision has not been reviewed, varied, set aside or appealed against, to date.
  - g. That the Respondent has refused to do as ordered in the said Ruling of the District Land Registrar, hence the need of making this application so that this matter should be put to rest.
  - h. That no prejudice will be caused to the Respondent if the application is allowed.
  - i. That this application has been made in good faith.
3. The Originating Summons is also supported by the Affidavit of the Plaintiff/Applicant herein William Omondi Okello sworn on 22<sup>nd</sup> February 2024, wherein he reiterated most of the averments made on the grounds in support. The Plaintiff/Applicant also annexed a copy of the title deed, certificate of official search which search confirmed the land parcel No. Narok Cis-Mara-Oleleshwa/19699 is registered in the name of the Defendant, herein – Musana Ole Parakuo.
  4. He also reiterated that when he lodged a caution against the said parcel of land, the Respondent applied to remove the said caution and a hearing was slotted before the Land Registrar. Further that the Land Registrar delivered a Ruling dated 13<sup>th</sup> May, 2022 as exhibited by annexure WOO3, and directed that the caution be removed on condition that the Defendant/Respondent was to transfer 7 acres to the Plaintiff.
  5. However, the Respondent challenged the said Ruling vide a Judicial Review being Narok ELCJR NO.E002 of 2022, which a JR was dismissed on 12<sup>th</sup> October, 2023 as per annexure WOO4.
  6. Therefore, with the said dismissal of the ELC JR, No. E002 of 2022 there is nothing remaining that would stop the execution of the findings of the Land Registrar Narok. He further averred that the Respondent has already subdivided and sold Cis-Mara-Oleleshwa/16853, which has further been subdivided into various parcels of land and sold to 3<sup>rd</sup> parties in disregard of his interests.
  7. The Applicant further claimed that the only parcel of land remaining from the various subdivision of Cis-Mara/Oleleshwa/16853 is Cis-Mara/19699, which he is now claiming. Further, that the Respondent was notified of the said Judgement of the Judicial Review and a request to sign the relevant documents to enable transfer, but has declined to do so as is evident from annexure W006. Therefore,



it is in the interest of justice that the application be allowed and that no prejudice will be caused to the Respondent if this Originating Summons is allowed.

8. Despite service of this Originating Summons to the Defendant/Respondent as per the Affidavit of service sworn by Geoffrey Mongare Mogaka, he failed to enter appearance nor file any response to the instant Originating Summons. The matter was mentioned severally as is evident from various mention notices filed herein, but the Respondent failed to attend court.
9. On 24<sup>th</sup> February, 2025, the court noted that the Defendant/Respondent had failed to Enter Appearance and directed that the Originating Summons be canvassed by way of written submissions.
10. The Plaintiff/Applicant complied with the said directions and filed his written submissions dated 21<sup>st</sup> March, 2025 through J. Maritim & Co. Advocates, and submitted that this cause arose from the fact that he purchased a portion of the land comprised of 10 acres from the Defendant/Respondent land No. Cis-Mara/Oleleshwa/16853, which had been curved out of and was registered as land parcel No. Cis-Mara/Oleleshwa/19698, which was registered in the name of the Plaintiff/Applicant.
11. He also submitted that without knowledge of the Plaintiff and on instigation of the Defendant/Respondent, the Land Registrar cancelled the Plaintiff's title for plot No. Cis-Mara/Oleleshwa/19698 and subdivided and transferred the resultant portion to 3<sup>rd</sup> parties.  
  
He also submitted that the Defendant/Respondent had a twin plot being Cis-Mara-Oleleshwa/19699 which arose from the subdivision of the Original land parcel No. Cis-Mara/Oleleshwa/16853, which was still in name of the Defendant as is confirmed by Exhibit W002.
12. Thereafter, the Plaintiff lodged a caution against the said twin plot, which caution application was heard and the Land Registrar -Narok delivered a Ruling and directed the Defendant/Respondent to transfer 7 acres to the Plaintiff. He also submitted that the Defendant/Respondent challenged the said decision vide a Judicial Review No. E002/2022, which was dismissed and the Ruling of the Land Registrar still stands.
13. The Plaintiff/Applicant framed two issues for determination being;
  - i. whether the court should direct the Defendant to sign all the relevant documents for transfer of 7 acres out of land parcel No. Cis-Mara/Oleleshwa/19699 to the Plaintiff/Applicant.
  - ii. who should bear costs of this suits.
14. The Plaintiff/Applicant urged the court to allow the instant Originating Summons on the Strength of the Ruling of the District Land Registrar Narok, wherein the said Registrar made a finding that the Plaintiff was entitled to 7 acres from the Defendant. Further that since Land Parcel No. Cis-Mara/Oleleshwa/16853, which had been subdivided was non-existent, the Defendant was to have 7 acres from land parcel No. Cis-Mara /Oleleshwa/19699, which was one of the resultant subdivision of Cis-Mara-Oleleshwa/16853, which is in the name of the Defendant/Respondent. He also submitted that this land parcel No.19699 is approximately 25 acres and he only requires 7 acres as per the Ruling of the Land Registrar, which Ruling was upheld in Narok ELC JR No. E002 of 2022.
15. It was his further submissions that for justice to be done, the court should uphold the ruling of the Land Registrar Narok, which Ruling still stands and has not been upset to date. The Plaintiff/Applicant also submitted that it would be unfair and against the interest of justice to subject him to another round of litigation.
16. On Costs, he submitted that since costs follow the event and the Defendant failed to comply with the Ruling of the Land Registrar - Narok then he should pay costs of this Originating Summons.



17. The court has carefully considered the instant Originating Summons and the written submissions by the Plaintiff/Applicant and finds the single issue for determination is whether the Plaintiff/Applicant is entitled to the orders sought in the said Originating Summons.
18. The claim herein is brought vide an Originating Summons dated 22<sup>nd</sup> February, 2024. A suit is filed as an Originating Summons in cases where there are no substantial dispute of fact, but rather disputes where the court needs to resolve a question of law, construction of documents or an application under specific legal provisions. The disputes that are targeted to be resolved through Originating Summons are disputes that are not complex and are often supposed to be resolved quickly and in a streamlined process. See the case of *Bhar vs Khan (1965)E.A 96* where the court held; -

“An originating summons is a form of legal proceeding designed to give, in certain specified circumstances, a quick, summary and inexpensive remedy”.
19. Therefore, the court herein finds that this being an Originating Summons, where the Plaintiff/Applicant is seeking for enforcement of the Ruling of the Land Registrar, then it is sufficient to consider the affidavit evidence filed by the Plaintiff/Applicant herein and his annexures, and then comes up with a determination on whether the suit herein is merited or not.
20. What is not in dispute is that there is a Ruling of the Land Registrar Narok dated 13<sup>th</sup> May 2022, to the effect that Plaintiff herein William Omondi Okello should remove caution on the Defendant’s land parcel No. Cis-Mara/Oleleshwa/19699 on condition that the Defendant Musana Ole Leparakuo executes all the necessary transfer documents to effect transfer of land parcels No. Cis-Mara/Oleleshwa/16853 to the Plaintiff who was the cautioner therein.
21. There is also no doubt that the Defendant challenged the said Ruling through a Judicial Review in Narok ELC JR No. E002/2022, which J.R was dismissed on 12<sup>th</sup> October, 2023. Therefore, the Ruling of the Land Registrar Narok still stands to date.
22. The Plaintiff/Applicant alleged that though the Defendant was directed to transfer 7 acres from Cis-Mara/Oleleshwa/16853, the said land is not in existence as it was closed upon subdivision on 17<sup>th</sup> July 2018, as is evident from W005.
23. Indeed, the court has seen the said Green Card of land parcel No. Cis-Mara/Oleleshwa/16853, and the said land was indeed closed upon subdivisions into parcels No. 17348 – 17352. Further the above subdivisions were also subdivided into new parcels of land. Land parcel No. Cis-Mara/Oleleshwa/17352, was subdivided into parcels Nos. 18581 to 18587. Further Land Parcel No.18587 was subdivided into land Parcels Nos. 19696 – 19699, and was closed upon subdivision.
24. The Plaintiff had averred that land parcel No. Cis-Mara/Oleleshwa/19698, was transferred to him, and a title deed was issued to him on 25<sup>th</sup> January, 2021. However, the said title was later cancelled and it is upon this cancellation that he lodged a caution on Land Parcel No. 19699, which caution was directed to be removed upon transfer of 7 acres to the Plaintiff by the Defendant from land parcel No. Cis-Mara/Oleleshwa/16853. This land parcel No.16853 is now non-existent.
25. From the available evident, it is clear that land parcel No. 16853 does not exist, but land parcel No.19699, which is in the name of the Defendant emanates from the subdivision of land parcel No. Cis-Mara/Oleleshwa/16853.
26. The Ruling of the Land Registrar – Narok, was not overturned and therefore it is still subsisting and was upheld by the court vide JR. No. E002 of 2022. Court orders are not issued in vain and Section 1A of the *Civil Procedure Act* implores the court to facilitate affordable resolutions of civil disputes before



it. Further Section 3A of the Civil Procedure Act mandates this court to issue orders that are necessary for the end of justice to be met.

27. This court finds that the necessary orders herein that should allow end of justice to be met is to allow the prayers sought by the Plaintiff/Applicant herein.
28. From the above reasons, the court finds that the instant Originating Summons is merited and thus Plaintiff/Applicant is deserving of the orders sought in the said Originating Summons.
29. Consequently, the court allows the instant Originating Summons dated 22<sup>nd</sup> February 2024, entirely in terms of prayers No. 1, 2 with costs to the Plaintiff/Applicant herein.

It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAROK THIS 8<sup>TH</sup> DAY OF MAY 2025.**

**L. GACHERU**

**JUDGE**

**8/5/2025**

Delivered online in the presence of

Meyoki – Court Assistant

Ms. Chepkemoi for the Plaintiff

N/a for the Respondent

