



Mukuna & another v Waweru & another (Environmental and Land Originating Summons E026 of 2021) [2024] KEELC 6317 (KLR) (17 September 2024) (Order)

Neutral citation: [2024] KEELC 6317 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E026 OF 2021
BM EBOSO, J
SEPTEMBER 17, 2024**

BETWEEN

PETER MUKUNA 1ST APPLICANT

IRENE WAMBUI 2ND APPLICANT

AND

ANNE NJOKI WAWERU 1ST RESPONDENT

MBO-I KAMITI FARMERS COMPANY LTD 2ND RESPONDENT

ORDER

1. This suit was initiated through an originating summons dated 2/9/2021. Through the originating summons, the two plaintiffs sought the following verbatim reliefs against the defendants:
 - a. This Honourable Court be pleased to declare that the 1st respondent's title to land parcel Ruiru/Kiu Block 4/2030 has become extinguished by operation of the law and that the applicant herein has become entitled to the whole parcel of land through adverse possession.
 - b. The Court be pleased to order that the whole of land parcel No Ruiru/Kiu Block 4/2030 be registered in the name of Peter Mukuna and Irene Wambui.
 - c. The respondent do execute all the necessary documents to effectuate the transfer of all that parcel of land known as Ruiru/Kiu Block 4/2030 to the applicants and in default the Deputy Registrar of this Honourable Court be empowered to do so.
 - d. The costs hereof be provided for by the respondent.
2. Subsequent to filing the suit, the plaintiffs brought a chamber summons application seeking leave of the court to effect service of summons on the 1st defendant through advertisement in either the Daily Nation or the Standard Newspapers. The plaintiffs subsequently filed an affidavit of service sworn on



5/10/2022 by one Martin Kuria Mwangi Advocate in which the deponent deposed that he had caused summons to be served on the 1st defendant through a notice that had been published in the Daily Nation edition of 13/9/2022.

3. The plaintiffs also caused an affidavit of service sworn on 25/11/2022 by James Nyaga Mureithi to be filed, indicating that the originating summons had been served on the 2nd defendant. On 23/2/2023, the Deputy Registrar certified the suit as ready for hearing and listed it for hearing before this Court [Eboso J]. The suit was subsequently heard as an undefended cause and now comes up for Judgment.
4. While preparing to write the Judgment, it has emerged that the plaintiffs did not exhibit a certified copy of the current land register relating to the suit land. They only exhibited an old official search expressed as issued in August 2021. The court does not, in the circumstances, know the current registered proprietor of the suit land.
5. Secondly, it has also emerged that the plaintiffs placed an obscure notice in one of the classified columns of the Daily Nation. It is apparent that certification of this matter by the Deputy Registrar was erroneously done on the basis of the said obscure notice.
6. Consequently, the court hereby directs and orders as follows:
 - a. The plaintiffs shall file a supplementary affidavit to tender a certified copy of the current land register and official search relating to the suit land.
 - b. Fresh summonses shall be served on both defendants through a prominent notice of not less than 4x5 inches and print font size 12 to be published in either the Daily Nation or the Standard Newspapers.
 - c. The order reserving a Judgment date in this suit is hereby vacated.
 - d. Fresh disposal directions will be issued once there is compliance by the plaintiffs.
 - e. Mention on 5/11/2024 for further directions.

DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA ON THIS 17TH DAY OF SEPTEMBER 2024.

B M EBOSO

JUDGE

In the Presence of: -

Plaintiffs - Absent

Respondents - Absent

Court Assistant - Hinga

