



Wainaina & another (Suing as the administrators of the Estate of Clement Wainaina alias Wainaina Ndirangu) v Molyn Credit Limited & 2 others (Environment & Land Case 5 of 2022) [2024] KEELC 13641 (KLR) (5 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13641 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 5 OF 2022
LC KOMINGOI, J
DECEMBER 5, 2024**

BETWEEN

CHRISTINE NJERI WAINAINA & SARA MUTHONI NGWIRI (SUING AS THE ADMINISTRATORS OF THE ESTATE OF CLEMENT WAINAINA ALIAS WAINAINA NDIRANGU) PLAINTIFF

AND

MOLYN CREDIT LIMITED 1ST DEFENDANT

THE LAND REGISTRAR, KAJIADO 2ND DEFENDANT

THE DISTRICT LAND REGISTRAR, NGONG 3RD DEFENDANT

RULING

1. This is the Notice of Motion dated 9th September 2024 brought under; (Sections 3, 3A, 64 (e) and Order 51 Rule 1 of the Civil Procedure (Revised Rules) 2010 CAP 21 Laws of Kenya).
2. It seeks orders;
 1. Pursuant to the Orders of this Court issued on 11th June, 2024 directing the Land Registrar Ngong to register parcel number Kajiado/Olekasasi/776 back to the name of Clement Wainaina Ndirangu alias Wainaina Ndirangu (now deceased), a further order do issue directing the Land Registrar Ngong to cancel the now existing Green card in the name of Molyn Credit Limited and to further issue a new Green Card in the name of Clement Wainaina Ndirangu alias Wainaina Ndirangu (deceased).
 2. In the alternative to 1 above, a further Order do issue directing the said Land Registrar Ngong to issue new Green Cards for the resultant titles subdivided from Kajiado/Olekasasi/776 that is to say Kajiado/Olekasasi/1635, Kajiado/Olekasasi/1636, Kajiado/Olekasasi/1637, Kajiado/



Olekasasi/1638, Kajiado/Olekasasi/1639, Kajiado/Olekasasi/1640, Kajiado/Olekasasi/1641, Kajiado/Olekasasi/1642, Kajiado/Olekasasi/1643, Kajiado/Olekasasi/1644, Kajiado/Olekasasi/1645 in the names of Christine Njeri Wainaina and Sara Muthoni Nguiri as the Administrators of the Estate of Clement Wainaina Ndirangu alias Wainaina Ndirangu (Deceased)

3. The costs of this application and all the processes in the lands office to put into effect the above or other related Orders be borne by the 1st Defendant/Respondent
4. Such other Orders as the Court may deem fit.
3. The grounds are on the face of the Notice of Motion and are set out in paragraphs 1 to 5.
4. The Application is supported by the affidavit of Christine Njeri Wainaina and Sara Muthoni Ngwiri, the Plaintiffs/Applicants sworn on the 9th September 2024.
5. The Application is opposed by the 1st Defendant/Respondent who has filed grounds of opposition dated 19th November 2024.
6. The Application was canvassed by way of oral submissions on the 20th November 2024.
7. I have considered the Notice of Motion, the affidavit in support, the response thereto and the rival submissions.

The issue for determination is whether the Application is merited.

8. It is the Plaintiffs case that the Green Card is in the name of the 1st Defendant. That they have been advised by the Land Registrar Ngong that there should be an order expressly directing the Land Registrar to cancel the Green Card in the name of the 1st Defendant.
9. The 1st Defendant/Respondent's on the other hand states that this court is functus officio having delivered Judgement on 11th April 2024.
10. On the 11th April 2024 this court directed the Land Registrar to cancel all title deeds created out of the subdivisions of Parcel Number Kajiado/Olekasasi/776 and register them in the name of Wainaina Ndirangu within one hundred and eighty (180) days from the date of the judgement.
11. The said Land Registrar has advised that in order to give effect to the above Green Card in the name of Modyn Credit Limited (the 1st Defendant) has to be cancelled.
12. I do not see how this amounts to canvassing new issues as stated by the 1st Defendant/Respondent.
13. I agree with the Plaintiff's submission that court orders are not made in vain.
14. In order to effectualize the Judgement, the orders sought in the instant application have to be granted.
15. I find that the Plaintiffs have demonstrated sufficient reason to grant the orders sought.
16. In conclusion I find merit in this application and I grant the orders sought in terms of prayer number 2, namely;
 - a. That an Order do issue directing the said Land Registrar Ngong to issue new Green Cards for the resultant titles subdivided from Kajiado/ Olekasasi/ 776 that is to say Kajiado / Olekasasi / 1635, Kajiado / Olekasasi / 1636, Kajiado/ Olekasasi/1637, Kajiado/ Olekasasi/1638, Kajiado/ Olekasasi/1639, Kajiado/ Olekasasi/1640, Kajiado/Olekasasi/1641, Kajiado/ Olekasasi/ 1642, Kajiado / Olekasasi / 1643, Kajiado/ Olekasasi/ 1644, Kajiado / Olekasasi/1645 in the names



of Christine Njeri Wainaina and Sara Muthoni Nguiri as the Administrators of the Estate of Clement Wainaina Ndirangu alias Wainaina Ndirangu (Deceased).

b. That costs of this application shall be borne by the Plaintiffs/Applicants.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 5TH DAY OF DECEMBER 2024.

L. KOMINGOI

JUDGE.

IN THE PRESENCE OF;

Mr. Mageto for the Plaintiffs/Applicant.

Mr. Muhuni for the 1st Defendant/Respondent.

N/A for the 2nd, 3rd Defendants.

Mutisya – Court Assistant.

