



Pulei (Suing as the Personal and Legal Representative of Kasaine Pulei Kinyoei alias Kasaine Ole Pulei - Deceased) v Pulei & 7 others; Kakaangi & another (Interested Parties) (Environment & Land Case 960 of 2017) [2023] KEELC 16121 (KLR) (15 March 2023) (Ruling)

Neutral citation: [2023] KEELC 16121 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 960 OF 2017
MN GICHERU, J
MARCH 15, 2023**

BETWEEN

MUNKET PULEI (SUING AS THE PERSONAL AND LEGAL REPRESENTATIVE OF KASAIN PULEI KINYOEI ALIAS KASAIN OLE PULEI - DECEASED) PLAINTIFF

AND

**MENTA NERISA RISA PULEI 1ST DEFENDANT
MATIPEI OLE RISA 2ND DEFENDANT
KIPIRORI OLE RISA 3RD DEFENDANT
MPOYE OLE RISA 4TH DEFENDANT
KIPENO ENERISA 5TH DEFENDANT
KONGO OLE RISA MUNII 6TH DEFENDANT
COUNTY LAND REGISTRAR, KAJIADO 7TH DEFENDANT
COUNTY SURVEYOR, KAJIADO DISTRICT 8TH DEFENDANT**

AND

**JOSEPH BABU KAKAANGI INTERESTED PARTY
PAULINE NASHUR BABU INTERESTED PARTY**

RULING

1. This ruling is on the application dated 14/3/2022. It does not state the law under which it is brought and it seeks the following prayers.



- i. Setting aside the judgment herein and that the interested parties be heard.
- ii. That costs be provided for.

The prayer to have Isaac Ndegwa Wachira and Eva Naipei Kuye join the suit was allowed on 24/10/2022.

2. The motion is supported by an affidavit dated 14/3/2022 and ten grounds. In summary the interested parties are saying that they are the registered owners of L.R. Kajiado/Kipeto/4574 which is a subdivision of L.R. 2289. The judgment and decree herein affects the proprietary interest of the interested parties yet they were not heard in the suit. When the suit was filed, the Plaintiff knew that the interested parties were in occupation but the Plaintiff did not serve them.
3. The application by the interested parties is opposed by the Plaintiff who has sworn a replying affidavit in which he replies as follows.

Firstly the application has been overtaken by events because on 26/1/2022, the 6th and 7th defendants effected the decree in the register by revoking title numbers Kajiado/Kipeto/1792 – 1797 reverting the same to parent title number Kajiado/Kipeto/347.
4. Secondly, the interested parties have not demonstrated how the decree will affect them when fully implemented.
5. Thirdly, the court is now functus officio having delivered the judgment. For those and other reasons, the Plaintiff prays that the application be dismissed.
6. Counsel for the parties filed written submissions on 16/1/2023 and 23/1/2023 respectively.
7. I have carefully considered the application dated 14/3/2022 in its entirety including the affidavits, grounds, annexures, the submissions and the case law cited therein.

I find that the application has no merit for the following reasons.

Firstly, the applicants have not proved that the decree herein will affect their so called proprietary interest. There is no evidence that the interested parties will be moved from the land that they occupy. They have not attached any pictures of what they have on the land and how it will be affected by the decree herein. It was incumbent upon the interested parties to preponderate this point and they have failed to do so.

Secondly, in the judgment dated 20/12/2021, it is already held that the reliefs sought from the defendants can be recovered from the defendants and the land that the plaintiff lost is still in the custody of the defendants. Nothing from the interested parties can make the court change this finding.

For the above stated reasons, I find no merit in the application dated 14/3/2022 and I dismiss it with costs to the plaintiff.

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 15TH DAY OF MARCH, 2023.

M.N. GICHERU
JUDGE

