



Shaiya v Board Management Umoja Primary School (Environment & Land Case 18 of 2021) [2023] KEELC 18536 (KLR) (3 July 2023) (Order)

Neutral citation: [2023] KEELC 18536 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT & LAND CASE 18 OF 2021**

BM EBOSO, J

JULY 3, 2023

BETWEEN

MOHAMMED ABDILLAHI SHAIYA PLAINTIFF

AND

BOARD MANAGEMENT UMOJA PRIMARY SCHOOL DEFENDANT

ORDER

1. Evidence in this suit was taken on November 1, 2022. Parties subsequently filed written submissions. While preparing a judgment in the suit, it has emerged that the two key questions to be determined in the suit are: (i) Whether the land surveyed as LR No 4953/1959 and comprised in Grant No IR 57372 is public land planned for public use but irregularly alienated by the Commissioner of Lands; and (ii) Whether Umoja Primary School is a trespasser on the land. The above issues cannot be effectually adjudicated and settled by this court in the absence of: (i) the County Government of Kiambu; (ii) the Director General of Physical and Land Use Planning; (iii) the Director of Land Administration in the Ministry of Land and Physical Planning; the National Land Commission; (iv) the Cabinet Secretary for Education and (v) the Attorney General. They are not parties to the suit yet the court is expected to make binding pronouncements on the issues without hearing them.
2. Consequently, the order reserving a date for judgment in this suit is vacated and it is hereby ordered that the said parties be joined as defendants in this suit and be served to enter appearance and file appropriate pleadings.
3. Further directions will be given on a date to be fixed by the court.
4. Lastly, for avoidance of doubt, this order is given pursuant to the powers vested in the court under Order 1 rule 10(2) of the *Civil Procedure Rules*.

DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA ON THIS 3RD DAY OF JULY 2023



B M EBOSO

JUDGE

In the Presence of: -

Mr Ngugi for the Plaintiff

Court Assistant: Hinga

