



REPUBLIC OF KENYA



**Kyule v National Land Commission (Environment and Land Miscellaneous Application 01 of 2020) [2022] KEELC 2330 (KLR) (6 July 2022) (Ruling)**

Neutral citation: [2022] KEELC 2330 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MAKUENI  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION 01 OF 2020**

**CG MBOGO, J**

**JULY 6, 2022**

**BETWEEN**

**JULIUS WATHOME KYULE ..... APPLICANT**

**AND**

**NATIONAL LAND COMMISSION ..... RESPONDENT**

**RULING**

1. The application for determination is dated 27<sup>th</sup> February, 2020 and was filed under certificate of urgency. It is brought under Sections 3 & 3A of the *Civil Procedure Act*, Order 57 Rule 1 of the *Civil Procedure Rules* (CPR) and all other enabling provisions of the Law. It seeks;
  - a) Spent.
  - b) That the Honorable Court be pleased to order that the Chairman, National Land Commission, pays the applicant his due of kshs 1,086,080/= justly awarded in 2015, for acquisition of plot No. Kinyambu/2481 measuring 1, 65.12 Ha.
  - c) That cost of this application be provided for
2. The application is supported by the grounds on its face and the affidavit of Julius Wathome Kyule sworn on the same date. He deposed that the dispute which stood in the way of the disbursement was settled by this Court on December 3, 2018. The documents exhibited in support of the application are marked as JWK1-6.
3. The application is not opposed despite the evidence of service on record. This Court noted that its judgment (JWK5) does not indicate the amount of money to be paid to the applicant. It therefore directed the applicant to file submissions on why the application should be allowed.
4. The applicant submitted that ELC Case No. 47 of 2017 arose from Standard Gauge Railway compensation to the family of mzee Kyule Kimuli. That the family agreed that he (applicant) was



- to receive the award but his step brother, Joseph Kimanthi Kyule, complained to the National Land Commission(NLC). Consequently, the award of kshs 1,086,060/= was never paid.
5. He submitted that despite his step brother being served, he never showed up and judgment was entered as prayed in the plaint. He submitted that the judgment was served upon NLC but no action was taken hence the current application.
  6. In Makueni ELC Case No. 47 of 2017, this Court entered judgment in favour of the plaintiff (applicant herein) in terms of prayers (a), (b) & (c) of the plaint. The said prayers were as follows:-
    - a. A declaration that the defendant is not entitled to the Standard Gauge Railway Award to Plot No. Kinyambu/2481.
    - b. That the award be paid to Julius Wathome Kyule's Account Number 1144054680 Kenya Commercial Bank Kibwezi.
    - c. The defendant pays the cost of the suit with interest at Court rates.
  7. I have carefully looked at all the exhibits and in the bundle marked JWK3, there is a document from NLC confirming that the compensation payable is kshs 1,086,080/=.
  8. The upshot is that the application has merit and I make the following orders:-
    - a) The Chairman of the National Land Commission is hereby ordered to pay kshs 1,086,080/= into account number 1144054680, Kenya Commercial Bank-Kibwezi, account name; Julius Wathome Kyule.
    - b) The Chairman of the National Land Commission to comply with order (a) within a reasonable time.
    - c) Each party to bear their own costs.

**SIGNED AND DELIVERED AT NAROK VIA EMAIL ON THIS 6TH DAY OF JULY, 2022.**

**MBOGO C.G**

**JUDGE**

**6/7/2022**

**In the presence of:-**

**T.Chuma CA**

