



Republic v The District Commissioner (As Chairman Meru Central Land Dispute Tribunal) & another; Marete (Interested Party); Mugwika (Exparte) (Judicial Review 163 of 2006) [2022] KEELC 2643 (KLR) (6 July 2022) (Ruling)

Neutral citation: [2022] KEELC 2643 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

JUDICIAL REVIEW 163 OF 2006

CK NZILI, J

JULY 6, 2022

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW
ORDERS OF CERTIORARI/PROHIBITION AGAINST THE MERU
CENTRAL DISTRICT LAND DISPUTES TRIBULAL ABOOTHUGUCHI**

AND

**IN THE MATTER OF SECTION 8 & 9 OF THE
LAW REFORM ACT CAP 26 LAWS OF KENYA**

AND

IN THE MATTER OF THE REGISTERED LAND ACT CAP 300 LAWS OF KENYA

AND

IN THE MATTER OF MERU CENTRAL LAND DISPUTE TRIBUNAL CASE NO. 98 OF 2005

AND

**IN THE MATTER OF LAND PARCEL NO. ABOOTHUGUCHI/
MAKANDUNE/107 AND IN THE MATTER OF MERU CMC L.D.T. NO. 19 OF 2006**

AND

IN THE MATTER OF THE LAND DISPUTES TRIBUNAL ACT NO. 18/90

BETWEEN

REPUBLIC APPLICANT

AND

**THE DISTRICT COMMISSIONER (AS CHAIRMAN MERU CENTRAL LAND
DISPUTE TRIBUNAL) 1ST RESPONDENT**

LAND DISPUTES TRIBUNAL ABOOTHUGUCHI DIVISION 2ND RESPONDENT



AND

MARGARET MARETE INTERESTED PARTY

AND

MWITAITI MUGWIKI EXPARTE

RULING

1. The court is asked to order the interested party to sign all the appropriate documents to cancel the subdivisions made regarding Abothuguchi/Makandune/107, reinstate the title as it was before the Land Dispute Tribunal decision and in the alternative authorize the Deputy Registrar to effect the transfers.
2. The application is supported by the affidavits of Mwitaiti Mugwika sworn on 10.1.2022. The reasons given are that the court quashed the decision of the Land Dispute Tribunal in its judgment dated 14.6.2018, but the interested party has refused or neglected to sign the appropriate documents to effect the transfer.
3. It is not in dispute that a decree dated 5.10.2018 was issued by this court quashing the proceedings and the award of the 1st respondent regarding Land Dispute Tribunal Case No. 98 of 2005. Similarly, an order of prohibition was issued restraining the respondents from implementing the aforesaid award regarding L.R No. Abothuguchi/Makandune/107.
4. The applicant herein now says the interested party has refused or neglected to sign the appropriate documents in order to effect the transfer and reinstate the land to its original state.
5. There is nothing attached to this application to show any efforts of execution of the decree against the respondents. Nothing has been attached to show that the respondents and by extension the interested party was served with the decree and perhaps has failed to honour it. The decree is also dated 2018. Order 22 rule 18 Civil Procedure Rules provides if a party has not executed a decree within one year, a notice to show cause has to be served upon the offending party why execution should not issue.
6. The applicant says the interested party has neglected to sign some papers to effect the transfers. When and which documents she has allegedly refused or neglected to sign have not been disclosed to this court.
7. Similarly, there is nothing by way of an official search to demonstrate that the status of the land has changed after the judgment was issued in contravention of the decree.
8. More over the decree was affecting the Meru Chief Magistrate court's Land Dispute Tribunal No. 19 of 2006. It is not clear if there was an attempt to execute the decree contrary to the stay orders granted by Lenaola J. as he then was on 26.10.2006.
9. In the premises I find no merits in this application. The same is dismissed with costs.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT

THIS 6TH DAY OF JULY, 2022

In presence of:

C/A: Kananu



Mokua for applicant

Gichunge for interested party

HON. C.K. NZILI

ELC JUDGE

