



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC NO. 494 OF 2013

SUSAN NJOKI NJUGUNA.....PLAINTIFF

=VERSUS=

JUJA CONSITUENCY DEVELOPMENT FUND COMMITTEE.....1ST DEFENDANT

THE OFFICE OF INSPECTOR GENERAL OF POLICE.....2ND DEFENDANT

THE CHIEF LAND REGISTRAR.....3RD DEFENDANT

THE HONOURABLE ATTORNEY GENERAL.....4TH DEFENDANT

RULING

The plaintiff brought this suit by way of a plaint dated 22nd April, 2013 seeking the following reliefs;

1. An order of permanent injunction restraining the defendants, their agents or servants from entering or remaining on all that parcel of land known as L.R No. Ruiru Kiu/Block 2 (Githunguri)/4979 (hereinafter referred to as “the suit property”) or in any other manner whatsoever interfering with the peaceful and quiet possession of the aforesaid parcel of land by the plaintiff together with her family, servants and/or agents.
2. An order of permanent injunction restraining the 1st, 2nd and 3rd defendants jointly or severally, their agents or servants from transferring, selling, assigning, conveying, charging, or further dealing in any manner whatsoever with the suit property.
3. An order of eviction of the 1st and 2nd defendants from the suit property forthwith.
4. An order authorizing the plaintiff to demolish all the illegal structures constructed on the suit property forthwith.
5. General damages
6. Exemplary damages
7. Interest at court rates on damages from the date of judgement to the date of full and final payment.
8. Cost.

In a judgment delivered on 17th December, 2020, the court entered judgment for the plaintiff against the defendants on the following terms;

1. An order of a permanent injunction is issued restraining the 1st and 2nd defendants by themselves, their servants or agents from entering, remaining on or in any other manner whatsoever interfering with the plaintiff’s quiet possession of L.R No. Ruiru Kiu/Block 2 (Githunguri) /4997.
2. An order of a permanent injunction is issued restraining the 1st, 2nd and 3rd defendants jointly or severally by themselves, their servants or agents from transferring, selling, assigning, conveying, charging, or further dealing in any manner whatsoever with L.R No. Ruiru Kiu/Block 2 (Githunguri)/ 4997.

3. The 1st defendant shall vacate and handover possession of L.R No. Ruiru Kiu/Block 2 (Githunguri)/4997 to the plaintiff and shall demolish and remove all the structures it had put up thereon forthwith and in any event not later than 30 days from the date hereof.

4. In the event that the 1st defendant fails to demolish and remove the illegal structures it had put up on L.R No. Ruiru Kiu/Block 2 (Githunguri)/4997 within 30 days from the date hereof, the plaintiff shall be at liberty to demolish and remove the same from the property.

5. The 1st defendant shall pay the plaintiff's costs of the suit.

On 10th April, 2021, the plaintiff's advocates, Githui & Partners wrote to the Deputy Registrar of this court requesting for correction of a clerical error in the said judgment. The letter stated as follows in part: *"On perusing the judgment delivered by S.Okongo J. on 17th December, 2020 ...it became apparent that the description of the subject matter was erroneously indicated as L.R No. RUIRU KIU/BLOCK 2(GITHUNGURI)4997 instead of L.R No. RUIRU KIU/BLOCK 2(GITHUNGURI)4979. In the circumstances, kindly amend the judgment to indicate the correct land number..."*

Section 99 of the Civil Procedure Act, Chapter 21 Laws of Kenya gives the court power to correct clerical or arithmetical mistakes in judgments, decrees or orders, or errors arising therein from accidental slip or omission. The correction can be made by the court either on its own motion or on the application by any of the parties.

Upon perusing the letter from the plaintiff's advocates aforesaid and going through the pleadings, the judgment and the decree issued by the court, I noted that there are indeed clerical errors at pages 1, 11 and 12 of the judgment in relation to the land reference number which is also replicated in the decree issued on 20th January, 2021. Instead of *L.R No. RUIRU KIU/BLOCK 2(GITHUNGURI)4979* that was in dispute, the court wrote *L.R No. RUIRU KIU/BLOCK 2(GITHUNGURI)4997*. This is an error which can be corrected under section 99 of the Civil Procedure Act aforesaid.

With a view to involve the other parties in the correction of the said error now that the correction is not being undertaken by the court on its own motion, I directed that the matter be mentioned on 18th October, 2021 with notice to all the parties. When the matter came up on 18th October, 2021, the advocates for the 2nd, 3rd and 4th defendants informed the court that the said parties had no objection to the application by the plaintiff for the correction of the aforesaid error in the judgment. The advocates for the 1st defendant did not attend the mention.

Having satisfied myself that the error pointed out by the plaintiff's advocates exist in the judgement and the decree and that it can be corrected under section 99 of the Civil Procedure Act and there being no objection to the application for correction, I allow the application and make the following orders;

1. The Judgment delivered on 17th December, 2020 is amended at pages 1, 11 and 12 thereof by deleting **4997** where it appears in the land reference number and inserting **4979** in place thereof.

2. The decree of the court issued on 20th January, 2021 shall be amended to accord with the judgment as amended.

DELIVERED AND DATED AT NAIROBI THIS 21ST DAY OF OCTOBER 2021

S. OKONG'O

JUDGE

Ruling delivered virtually through Microsoft Teams Video Conferencing Platform in the presence of:

Mr. Kori h/b for Mr. Githui for the Plaintiff

N/A for the 1st Defendant

N/A for the 2nd, 3rd and 4th Defendants

Ms. C.Nyokabi-Court Assistant