



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT MOMBASA**

**CIVIL SUIT NO. 3 OF 2013**

**HAMIDU MOSES MRUTTU.....PLAINTIFF**

**VERSUS**

**ZACHARIA MUHINDI KIBANGA & 4 OTHERS ..... DEFENDANTS**

**RULING**

***(Application by the successful plaintiff seeking orders for police protection to erect a wall around the suit premises; judgment already entered for the plaintiff declaring him owner of the suit land; plaintiff claiming continued interference from the defendants hence need for police protection; application allowed)***

1. The application before me is that dated 11 February 2021 filed by the plaintiff. The application first seeks that leave be granted to the law firm of M/s John Bwire & Company Advocates to come on record in this matter. The substantive prayer is that an order be issued directing the Officer Commanding Police Station (OCS) of Taveta Police Station to provide security and protection to the plaintiff and his workers during the construction/development of a perimeter wall on the Plot No. 34296/IV- Taveta (the suit property).
2. By way of background, the applicant filed this suit on 8 January 2017 originally against one defendant, S.M Rashid. The plaint was later amended on 5 June 2015, the effect of the amendment being to remove S.M Rashid from the suit and instead to have five new defendants being Zacharia Muhindi Kibanga, Mzungu Shabani Lukwaru, Dickson Gitonga Naftaly, Arthurson Mungela, and Geomeasure Surveyors Limited. In the amended, plaint, the applicant averred to be the owner of the suit property. He complained of interference from the defendants and he wished to have them permanently restrained from the suit land.
3. The defendants did not file any defence in the matter. The matter proceeded for hearing ex parte before Komingoi J, and judgment delivered on 13 June 2018. The court issued a declaration that the applicant is the bona fide owner of the suit property and also issued an order of permanent injunction against the defendants.
4. In this application, the applicant avers that he has served the judgment on the OCS Taveta and that he obtained the necessary approvals to construct a perimeter wall. On 4 February 2021, he was shocked to see a newly built temporary iron sheet structure on the suit property. He deposes that the defendant is a former county clerk and is influential in mobilising goons. He has stated that he has requested for police protection but they require an order to that effect.
5. The application is not opposed. On the first prayer to allow the law firm of M/s John Bwire & Associates to come on record for the applicant, I see no issue and allow it. On the prayer for police protection I also see no issue. There is already judgment delivered in favour of the plaintiff. It appears as if there are some persons who are keen to frustrate the applicant from benefitting from the fruits of his judgment. I therefore give the order for the OCS Taveta Police Station to provide protection to the applicant as necessary in order to protect his proprietary interest. This includes protection to erect a wall on the suit premises.
6. I make no order as to costs.
7. Orders accordingly.

**DATED AND DELIVERED THIS 10TH DAY OF NOVEMBER 2021**

**JUSTICE MUNYAO SILA**

**JUDGE, ENVIRONMENT AND LAND COURT**

**AT MOMBASA**