



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

JUDICIAL REVIEW NO. 1 OF 2018

IN THE MATTER OF AN APPLICATION BY:

SOITARA SAOLI.....SUBJECT

**FOR JUDICIAL REVIEW PROCEEDINGS IN THE NATURE OF CERTIORARI AND PROHIBITION AND
IN THE MATTER OF PROCEEDINGS AND RULING IN THE NAROK ADJUDICATION OFFICE, UNDER LAND
ADJUDICATION ACT, CAP 284 OF THE LAWS OF KENYA**

AND

IN THE MATTER OF APPEAL TO THE MINISTER IN CASE NO. 114 OF 2005

AND

**IN THE MATTER OF THE PROCEEDINGS AND A COURT RULING MADE ON 9TH MARCH, 2018 BY THE DEPUTY
COUNTY COMMISSIONER, NAROK NORTH SUB COUNTY**

AND

IN THE MATTER OF AN APPLICATION BY:

REPUBLIC.....APPLICANT

VERSUS

CABINET SECRETARY FOR LANDS.....1ST RESPONDENT

DIRECTOR OF LAND ADJUDICATION...2ND RESPONDENT

DEPUTY COUNTY COMMISSIONER,

NAROK NORTH SUB COUNTY.....3RD RESPONDENT

AND

PAUL MOROMBI SAOLI (REPRESENTING LEPOSO OLE

SAOLI, NOW DECEASED).....INTERESTED PARTY

EXPARTE: SOITARA OLE SAOLI.....SUBJECT

RULING

(Application dated 7th December, 2018)

The Plaintiff by a Notice of Motion dated 7th December, 2018 sought for orders requiring that the Respondent show cause as to why he

should not be cited for contempt of court and committed to civil jail.

From the grounds on the face of the application, the Applicant one Soitara Ole Saoli's Affidavit sworn on the 7th day of December, 2018 in support of the application, the applicants case is that in total disregard of an order granted by this court dated 19th April, 2018, the respondent/interested party has deliberately leased a portion of the land to one Matiko Ole Sadera who has moved to occupy a store that he the applicant had erected on the farm. Further that the respondent and his agents continue to threaten the applicant's family and servants he had contracted to work on the farm.

The Applicant in support of his application annexed lease agreement between the respondent and another party and the agreements are dated 12th June, 2014. A closer look at the lease agreement, I note that it states that the lease runs for one year therefore expired on January, 2014 as it had commenced in January, 2013.

In response, the respondent Paul Morombi Saoli through his replying affidavit dated 16th January, 2019, dismissed the application as frivolous and a gross abuse of the court's process. He also added that the application had been brought with the sole aim of derailing the main application and thus a side show.

Enumerating instances in support of his averments in his affidavit, the respondent said that him and his family have been in occupation of land parcel No. Plot No. 60 Olokurto to adjudication which is subject to these proceedings. That the alleged order issued on 4th May, 2018 notably order 4 stayed further proceedings and decision made on 9th March, 2018 by the Deputy County commander Narok North Sub-County in respect to the subject land and that no further orders had been granted.

The respondent made reference to the lease agreement annexed by the applicant and stated that the same was executed 7 years ago and that the applicant cannot rely on the same in the instant case. In the replying affidavit the respondent urges the court to dismiss the application with costs.

I have read and considered the application and the averments in both the supporting and replying affidavits together with submissions and I find that since contempt of court has criminal consequences, no assumptions should be made and that I find there is no sufficient proof of disobedience of the court order and consequently, the application is hereby dismissed with no orders as to costs.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **25th** day of **February, 2020**

Mohammed Kullow

Judge

25/2/2020

In the presence of: -

CA:Chuma/Kimiriny

Dr Nyakaga for the exparte applicant

Mr Kilele holding brief for Mukira for the interested party

Mohammed Kullow

Judge

25/2/2020