



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC NO. 6 OF 2019

RANTANE ENOLE SHANKORI.....1ST PLAINTIFF

HASSAN KAUSA OLE SENA.....2ND PLAINTIFF

JOSEPH KIRIKET OLE KARANDA.....3RD PLAINTIFF

BARIWOT CHAMDANY.....4TH PLAINTIFF

VERSUS

EDWARD PARSINTEI PERTET.....1ST DEFENDANT

MUSEE OLE KURIA.....2ND DEFENDANT

KIPTERKESH OLE KURIAI.....3RD DEFENDANT

JACKSON WUANTAI MARIKO.....4TH DEFENDANT

SIMON KIRRIKAI.....5TH DEFENDANT

DAVID SOL.....6TH DEFENDANT

MICHAEL PERTET.....7TH DEFENDANT

THE LAND REGISTRAR NAROK COUNTY.....8TH DEFENDANT

THE DISTRICT LAND SURVEYOR NAROK.....9TH DEFENDANT

THE ATTORNEY GENERAL.....10TH DEFENDANT

RULING

By a Notice of Motion dated 13/2/19 the Plaintiffs/Applicants sought for orders inter alia that pending the hearing and determination of the suit herein the Defendants/Respondents either by themselves, agents and/or employees be restrained from verifying, altering, or moving the current boundaries of plot No. Narok/Cis Mara/Olololunga/689,6411,6362,7063 and all other parcels along the boundaries of former Enakishomi Group Ranch and parcel number Cis/Mara/Olololunga/115. The Application was based on the grounds that the 1st to 7th Respondents have sought the services of the 8th and 9th Respondents to move to the ground and establish the boundaries of the suit land. the Applicants further contend that their plots emanated from the sub-divisions of Plot No. Narok/Cis Mara/Olololunga/115(Enakishomi Group Ranch) which was dissolved some twenty years ago any interference with the boundary will affect their own plot. The Applicants further contends that they have lived on the suit land for over 40 years subject to the dissolution of Enakishomi Group Ranch.

The Application was further supported by the Affidavit of the 1st Plaintiff/Applicant.

The Application was opposed by the Defendant/Respondent. the First Respondent in his opposition to the Application stated that the Applicants are seeking permanent injunctive orders at the interlocutory stage and therefore the said application is defective. The 1st Respondent further states that his land do boarder the Applicants parcels and hence the Applicants fear are unwarranted. Lastly the 1st

respondent contends that the orders sought have been overtaken by events as they have been resurveyed and what they attempt to stop has been done.

The 4th, 5th and 6th respondents have opposed the application through a joint replying affidavit and they contend that their own land parcel Cis Mara/Olololunga/188,189 and 190 respectively and those parcels are separate from those of the Plaintiffs/Applicants and thus they are not opposed to the verification of the boundaries and identification or fixing of beacons. The 8th, 9th and 10th respondents did not file any response to the applicioatn.

I have read the application before me and the submissions filed by the parties and what is before the court to determine at this stage is whether the Applicants have made case for the grant of orders of injunction. The conditions for the grant of orders of injunction are already settled. Whether the Applicants have established a case with prima facie evidence with probability of success, whether damages will not be adequate compensation and lastly on whose side does the balance of convenience tilt.

From the instant Application the applicants contend that the respondents are about to alter and move the boundaries of the suit land and concurrently carry out an exercise to verify the boundaries and the marking of beacons. The Respondents contend that the boundaries of their parcels of land have been determined and verified and that they have a separate and distinct parcels and in any event this exercise was undertaken on the 6/2/19 and thus the entire application has been overtaken by events.

From the affidavits filed these facts have not been disputed by the Applicants and furthermore it is under the provisions of section 19 of the Land Registration Act it is the mandate of the land registrar to determine and fix common boundaries.

Having considered the application before me and the submissions filed it is my finding that the applicants have not satisfied the conditions for the grant of injunction and that the issues raised in the Application can only be determined at full hearing where evidence will be heard and further more since the applicants have not controverted the respondents assertion that the said verification and determination of boundaries took place on 6/2/19 there is nothing left for the court to intervene and therefore I find the application lacks merit and I dismiss the same with costs.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **24th** day of **February, 2020**

Mohammed Kullow

Judge

24/2/2020

In the presence of: -

CA:Chuma/Kimiriny

Ms Karie for the Plaintiff

7th Respondent present

N/A for the 8th, 9th and 10th Respondents

Mohammed Kullow

Judge

24/2/2020