



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

CIVIL SUIT NO. 16 OF 2017

NATHAN WANJALA MUHINDI.....1ST PLAINTIFF

HENRY SIMIYU JUMA.....2ND PLAINTIFF

MOSES WAFULA.....3RD PLAINTIFF

DAVID WEKESA.....4TH PLAINTIFF

PATRICK WANGILA.....5TH PLAINTIFF

DORRIS NAMWENYA LUSAMAMBA.....6TH PLAINTIFF

VERSUS

TAWAI LIMITED.....1ST DEFENDANT

THE REGISTRAR OF COMPANIES.....2ND DEFENDANT

AND

FRED JUMA MUMIA.....1ST INTERESTED PARTY

PATRICK WAFULA MAKOKHA.....2ND INTERESTED PARTY

ALFRED SINDANI WANOYNYI.....3RD INTERESTED PARTY

DIRECTIONS

1. This matter was due for ruling on the Plaintiffs/Applicants application dated 20/11/2017. I have perused the same and it raised weighty issues. It is not in dispute that the issues surrounding Tawai Limited have been litigated all the way to the Court of Appeal. Infact an appeal emanating from Eldoret Environment and Land Court Case No. 87 of 2013 is admittedly pending before the said court which has granted orders stopping dealings in 640 acres of the land.

2. It appears there are other cases pending before the Environment and Land Court here at Kitale.

3. Looking at the sum total of the entire spectra surrounding the said land buying company, it appears that there have been fraudulent activities perpetrated in the past either by directors of their cohorts. The paper trail of correspondences between them, Registrar of Companies as well as other government agencies speak volumes. In essence "small fish" have suffered.

4. Issuing injunction by this court against the defendants or interested parties would be a short term solution and exacerbate the problem. This court is of the view that there must be a dialogue involving the plaintiffs, the current directors of the company as recognised by the Registrar of Companies as well as the Registrar of Companies.

5. Once the way forward has been charted then the only road block shall be the pending suits in the court of Appeal and other courts which have issued injunction or stay reliefs.

6. This court has deliberately decided to take this course as issuing another injunction would not be in the interest of the shareholders who have no interest over the directorship wars and the related settlement of scores.

7. Let therefore an appropriate meeting be held as directed above which shall be guided by this court.

Delivered, signed and dated at Kitale this 9th day of April 2018.

H.K. CHEMITEI

JUDGE

9/4/18