



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUNGOMA
LAND & ENVIRONMENT CASE NO. 131 OF 2014

KENNEDY NASHAN WANDIEMA.....PLAINTIFF

VERSUS

JANEROSE CHEPKEIO SICHEL.....1ST DEFENDANT

GEOFREY EDETE EBUSURU.....2ND DEFENDANT

TOIBERT NGEYWA.....3RD DEFENDANT

DISTRICT LAND REGISTRAR BUNGOMA.....4TH DEFENDANT

RULING

[1]. The order of the Court of 3rd October 2016 was that the Plaintiff was to extract the order of the Court and serve on the 3rd and 4th defendants.

The return of service dated 20/3/2017 and filed by Paul Juma advocate who has the conduct of this case states that he received original copies of Mention Notice dated 13/3/2017 from his firm. He served the same by posting it to the defendants.

This was substituted service not sanctioned by the court. There is absolutely no guarantee that the 3rd and 4th defendants received the copies of the mention stated therein.

Of concern is that the 3rd and 4th defendants were supposed to receive the Court order of 3/10/2016 which was to be extracted by the Plaintiff. No order was extracted and none was served on the 3rd and 4th defendants.

[2]. The 3rd and 4th defendants were therefore no served as ordered by the Court. They cannot be blamed for not coming to court on 17/3/2017 and 22/3/2017. They will have to be served as per the order of the Court. A fresh date shall be taken. When this matter will be mentioned for further orders.

The Plaintiff shall pay Kshs.1,000/= C.A.F. before the next date is taken.

Ruling read in open Court in the presence of Mr. Anwar.

DATED at BUNGOMA this 6th day of April, 2017.

S. MUKUNYA

JUDGE

In the presence of:

Court Assistant: Gladys

Mr. Anwar for Mr. Juma for Plaintiff

Kraido & Co. Advocates for 1st defendant - Not present

Mr. Onchiri for 2nd and 3rd - Not present

State Counsel - For the 4th defendant - Not present