



REPUBLIC OF KENYA

IN THE ENVIRONMENT & LAND COURT OF AT ELDORET

E&L JUDICIAL REVIEW 2 OF 2013

IN THE MATTER OF ORDER 53 RULE 1 OF THE CIVIL PROCEDURE ACT

AND

IN THE MATTER OF THE LAND REGISTRATION ACT, 2012

AND IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

EVANS KALEKA SOGOMI.....APPLICANT

VS

DISTRICT LAND REGISTRAR, UASIN GISHU.....1ST RESPONDENT

JOHN MWANGI NJUGUNA.....2ND RESPONDENT

JAMES MUASYA MUTUNGA.....3RD RESPONDENT

WENDANI S.H.G. TRUSTEES.....4TH RESPONDENT

FRANCIS KARANJA KIANDA.....5TH RESPONDENT

GEOFFREY NGIGI KIBE.....6TH RESPONDENT

JAMES KAMAU MUCHIRI7TH RESPONDENT

RULING

The applicant Evans Kaleka Sogomi has filed this application seeking leave to institute Judicial Review proceedings for :-

- a. *An order of certiorari to quash the decision of the District Land Registrar to cancel the registration of the applicant as owner of the land parcel Eldoret Municipality Block 21 (Kingongo) 3734.*
- b. *An order of or prohibition, prohibiting the District Land Registrar, Uasin Gishu District from effecting transfer, charge, subdivision or any dealings whatsoever in respect to the property Eldoret Municipality Block 21 (Kingongo) 3734.*
- c. *An order of mandamus to compel the District Land Registrar, Uasin Gishu District to reinstate the applicant as the registered proprietor of the property Eldoret Municipality Block 21 (Kingongo) 3734.*

In this application, the ex-parte applicant has also prayed that the leave do operate as a stay so as to restrain the District Land Registrar, Uasin Gishu District, from entering any dealings in the title of the

land parcel Eldoret Municipality Block 21 (Kingongo) 3734 pending the hearing and determination of the substantive motion.

It is the applicant's case that he purchased the suit land from the previous registered proprietor and became registered as owner of the suit land on 6 December 2012. It is alleged that the Land Registrar, unlawfully and unprocedurally and in excess of authority cancelled the applicant's registration and unlawfully registered the 3rd-7th respondents as proprietors.

I have seen the annexed extract of the title which shows that the applicant was actually registered as proprietor of the suit land on 6 December 2012 but that registration has been cancelled. Subsequently on 10 December 2012 the 3rd - 7th respondents were registered as proprietors.

I cannot tell at this stage what prompted the cancellation but I guess that is a matter to be canvassed at the substantive hearing of the judicial review application. For now, I am satisfied that this is a suitable case for the grant of leave to institute a motion for judicial review. However, I direct the District Land Registrar to be the sole respondent in the Judicial Review motion. The other parties who are cited herein as the 2nd - 7th respondents will be enjoined to the motion but only as interested parties. This is because they are not the persons who made the decision to cancel the registration of the ex-parte applicant but they are interested in the subject matter of the suit.

I also issue an order of prohibition, prohibiting the District Land Registrar, Uasin Gishu District, from making any further entries or registering any disposition in the land parcel Eldoret Municipality Block 21 (Kingongo) / 3734 pending the hearing and determination of the substantive motion for judicial review.

I further direct that the substantive motion be filed within 21 days from the date hereof and the same be served upon the respondent and the interested parties within 15 days of filing. I reserve the right to review the stay order if the ex-parte applicant does not comply with these directions.

DATED AT ELDORET THIS 6TH DAY OF MAY 2013

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT & LAND COURT AT ELDORET

Ruling delivered in the presence of :-

No appearance for M/s J.K. Korir & Co Advocates for the ex-parte applicant.