



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT ELDORET

ENVIRONMENT AND LAND CASE NO. 150 OF 2012

PATRICK LOKWANGA.....1ST PLAINTIFF

PAUL ROP KOMEN.....2ND PLAINTIFF

JACOB CHEBOI.....3RD PLAINTIFF

CHRISTOPHER KANDA.....4TH PLAINTIFF

DAVID BARNGETUNY.....5TH PLAINTIFF

Sued in their personal capacity and on behalf of KAREL CLAN)

VERSUS

JOSEPH CHEBOI.....1ST DEFENDANT

SIMION TOO.....2ND DEFENDANT

JOHNSTONE KISANG.....3RD DEFENDANT

MICHEAL CHEBET.....4TH DEFENDANT

MARTIN KIPROP.....5TH DEFENDANT

CHEPKAMABA KIPKICH.....6TH DEFENDANT

Sued in their personal capacity and on behalf of KAMOI CLAN

RULING

This Ruling is in respect of an application dated 16/4/18 by the Plaintiff/Applicant for orders that the entire proceedings and the orders made on 3/4/18 be set aside and the Notice of Motion dated 8/2/18 be fixed for hearing.

Parties filed submissions in respect of the application and a ruling date set.

I have considered the submissions by both Counsel and the circumstances under which the orders were granted and have the following to say:

This matter was placed before Justice Ombwayo Under Certificate of Urgency during the court vacation and the Judge gave a hearing dated for 3/4/2018. The court had ordered the Applicant to serve the application by close of business on the same day.

On the day of the hearing Counsel for the plaintiff was absent and the court heard the application Ex-parte after Counsel filed an affidavit of service in court. The court granted an order of stay of execution with condition for deposit of security.

The Plaintiff/Applicant was dissatisfied with the order on the ground that they were never served.

I have considered the arguments and order that the Exparte Order is hereby set aside and the application for stay be fixed for hearing.

Hearing of application of 12/6/2019

Dated and delivered at Eldoret this 09th day of May, 2019

M.A. ODENY

JUDGE

RULING read in open court in the presence of Miss.Wahome for Plaintiff/Applicant and Mr.Kiboi for Defendant/Respondent.

Mr.Mwelem – Court Clerk