



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO. 245 OF 2017

PATRICK NG'ANG'A KIARIE.....PLAINTIFF

VERSUS

MICHAEL KAMAU MWANGI.....1ST DEFENDANT

COUNTY GOVERNMENT OF NAKURU.....2ND DEFENDANT

AND

MICHAEL KAMAU MWANGI

LOISE WANGARI NJOROGE.....INTERESTED PARTY

RULING

(Application to be enjoined as interested party; applicant appearing to have a distinct claim for the suit land; application dismissed and applicant advised to file a separate suit to agitate his claim)

1. The application before me is that dated 14 November 2018 filed by two persons, namely Michael Kamau Mwangi and Loise Wangari Njoro, who wish to be enjoined in these proceedings as interested parties.

2. To put matters into context, this suit was commenced through a plaint which was filed on 12 June 2017 against one Michael Kamau Mwangi and the County Government of Nakuru. In his plaint, the plaintiff averred that on 1 September 2009, he saw a notice of repossession of plots within the jurisdiction of the County Government of Nakuru. He then applied to be allocated one of the repossessed plots and was allotted the plot known as Light Industry Plot No. 30 at Bahati Trading Centre and was issued with an allotment letter. This plot had initially been allotted to one Elijah Mwangi (now deceased). In June 2017, the 1st defendant, entered the plot claiming that it belongs to his deceased father, the said Elijah Mwangi and it is this which prompted him to file this suit. In the case, he wishes to have the said Michael Kamau Mwangi, permanently restrained from the suit land.

3. The two applicants have filed this application as administrators of the estate of Elijah Mwangi. They claim that their father was allotted the suit land and that the said property is subject to succession cause No. 36 and 37 of 2016. It is claimed that the estate of the deceased has been in occupation of the suit land and pays rates to date.

4. I have considered the application. It does appear to me as if the estate of the deceased wishes to claim the suit land. If that is the case, what the applicants need to do is file suit on behalf of the estate of the deceased stating why they believe the suit land ought to be held as belonging to the estate of the deceased and not to the plaintiff herein. If found necessary, such suit, if filed, may be consolidated with this suit for a final determination. I am not persuaded that the best avenue is for the applicants to seek to be enjoined as interested parties, for it seems to be that the estate wishes to agitate its own claim of entitlement to the suit land.

5. For the above reasons, I am not inclined to allow the application and the same is hereby dismissed.

6. I make no orders as to costs.

Dated, signed and delivered in open court at Nakuru this 24th day of July 2019.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU

In presence of : -

Ms. Moenga present for the plaintiff.

No appearance on the part of the defendants.

No appearance on the part of M/s Oumo & Co. for the applicant.

Court Assistants: Nelima Janepher/Patrick Kemboi.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU