



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT KISUMU**

**ELC CASE NO. 398 OF 2015**

**ISAAC E. N. OKERO.....1<sup>ST</sup> PLAINTIFF**

**BEATRICE A. OKERO.....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**TOM SOYA OKWACH.....1<sup>ST</sup> DEFENDANT**

**SAMWEL OTIENO ONYANGO.....2<sup>ND</sup> DEFENDANT**

**RULING**

1. Isaac E. Okero and Beatrice A. Okero hereinafter referred to as the plaintiffs have come to court with application dated 27<sup>th</sup> July 2017, seeking certain particulars of names and ranks of officials at the County Land Registry who purportedly identified the parcel of land the 1<sup>st</sup> defendant occupies as being the parcel of land to which he possesses a title, the means by which the officials of the Ministry of which purported to identify the land applied in the identification. The date of communication of the identification and how it was recorded and the names of the Surveyor.

2. The 1<sup>st</sup> defendant on the other hand argues that this is a boundary dispute and therefore should be resolved by the County Land Registrar.

3. I have heard Mr. Mweisigwa learned Counsel for Plaintiffs. I have also heard Mr. Tom Soya Okkach, the 1<sup>st</sup> defendant and Samuel Otieno Onyango and do find that what the Plaintiffs seek if ascertained will resolve the dispute as this is basically a boundary dispute between Nyalenda "B" 928 and Kisumu/Nyalenda "B" 1540.

4. The defendants are not well placed to avail the information sought by the Plaintiff but the County Land Registrar and County Land Surveyor are the right persons to avail the information.

5. I decline to grant the orders sought and do direct that the county land registrar Kisumu and the county land surveyor Kisumu do visit the two disputed parcels of land and do determine the boundary between Nyalenda "B" 928 and Kisumu/Nyalenda "B" 1540. Each party be at Liberty to appoint an independent surveyor to assist in the determination of the boundary. Parties to share the costs of the survey. Costs of the application in the cause.

Orders accordingly.

**A. O. OMBWAYO**

**ENVIRONMENT & LAND**

**JUDGE**

**DATED AND DELIVERED THIS 20<sup>TH</sup> DAY OF SEPTEMBER, 2019.**

**In the presence of:**

Plaintiff      N/A

Defendant N/A

Counsel Mr. Mweisigwa for plaintiff

Mr. Tom Soya Okwatch for defendant

**A. O. OMBWAYO**

**ENVIRONMENT & LAND**

**JUDGE**