



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA

ELC CASE NO. 159 OF 2015

RISPA MAENDE OLANDO.....PLAINTIFF/APPLICANT

VERSUS

PRAXIDIS A OSALE

CAREEN N. OKANGA

LINUS O. JUMA

LIVINGSTONE A. MURUNDA

STEPHEN O. OPELLI

LAND REGISTRAR, KAKAMEGA

HON. ATTORNEY GENERAL.....DEFENDANTS/RESPONDENTS

RULING

The application is dated 20th April 2015 and is brought under Section 1A, 1B and 3A of the Civil Procedure Act Cap 21 Laws of Kenya seeking the following orders:-

1. That the respondents be held to be in disobedience of the honourable court order dated 21st May 2013.
2. That an order of committal to prison be made against the respondents herein for such a period as this honourable court may deem just for the disobedience of its orders dated 21st May 2013.
3. That in the alternative to prayer 2 above the respondents be fined for the said contempt.
4. That the Land Registrar, Kakamega be compelled to cancel all registrations emanating from L.R. North Wanga/Mayoni/449 with or without the surrendering of any title deeds created therefrom and revert title to the deceased Khasolo Kalamanywa.
5. That the land Registrar, Kakamega be compelled to avail the register of L.R. North Wanga/Mayoni/449 and all other registers created therefrom.
6. That costs be provided for.

It is premised upon the following main grounds that the Land Registrar Kakamega has failed to cancel the registration of the 1st and 2nd respondents and any subsequent registrations despite being served with the order dated 21st May 2013 on 17th July 2013. That the 6th respondent has failed to register the order dated 21st May 2013 despite the same having been filed and paid for on 26th August, 2013. That the 1st and 2nd respondents have refused to surrender the title deeds issued to them and subsequent ones created therefrom for cancellation. That the respondents have caused further subdivisions and transfer of the suit land herein to several other parties including the 3rd, 4th and 5th respondents among others despite having been served with the said order. That the 6th respondent has caused the disappearance of the register of the suit land herein which the applicant has endeavoured to trace to no avail.

The 5th respondents submitted that he was not served with such orders marked as RMA – (a) of the applicant's affidavit and if indeed it is

true, the applicant need to follow the appropriate channel and/or right execution process as per Cap 21 Laws of Kenya but not by way of contempt of court order. That its vexatious for the applicant/plaintiff to claim costs from him and yet land parcel No. N/Wanga/Mayoni/449 the subject matter of this suit was not utilized by him, his servant and/or his agents at any given time.

This court has considered the application and the submissions herein. The application is based on the grounds that the Land Registrar Kakamega has failed to cancel the registration of the 1st and 2nd respondents and any subsequent registrations despite being served with the order dated 21st May 2013 on 17th July 2013. That the 6th respondent has failed to register the order dated 21st May 2013 despite the same having been filed and paid for on 26th August, 2013. That the 1st and 2nd respondents have refused to surrender the title deeds issued to them and subsequent ones created therefrom for cancellation. No evidence has been adduced in this court that an the order of 2013 was ever served on the respondents. The applicant is advised to follow the proper channels in execution of court orders through the Deputy Registrar of this court. This application is not merited and is dismissed.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KAKAMEGA IN OPEN COURT THIS 28TH NOVEMBER 2019.

N.A. MATHEKA

JUDGE