



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 246 OF 2017

FORMERLY NAKURU HCC NO. 219 OF 2011

MERIN OLE TUYOTO & 124 OTHERS.....PLAINTIFFS

-VERSUS-

THE CHAIRMAN LIMANET GROUP

RANCH COMMITTEE.....1ST DEFENDANT

DISTRICT LAND REGISTRAR.....2ND DEFENDANT

THE HON. ATTORNEY GENERAL.....3RD DEFENDANT

DANSON RIKANA SANOE.....4TH DEFENDANT

RULING

By a Notice of Motion dated 22nd October, 2019 and brought under sections 3, 3A and 6 of the Civil Procedure Act and order 51 of the Civil Procedure Rules 2010 the Plaintiffs/Applicants have sought for orders that there be a stay of proceedings in Narok Magistrate's Court ELC No. 123 of 2019 and that pending the hearing and determination of this suit that is, Narok ELC 246 of 2017, there be an order of status quo in respect to the land parcel No. Cis Mara/Ilmashariani Morijo/1230. The Application is based on the grounds that the Plaintiffs in Narok Magistrate's Court ELC No. 123 of 2019 are seeking orders of injunction against the Defendants from trespassing on the Land parcel/Cis Mara/Ilmashariani Morijo/1230 which land arose from the sub-division of land parcel Cis Mara/Ilmashariani/Morijo 48 and that unless it is stayed the Applicants will suffer irreparable loss. The application was further supported by the Affidavit of one Merin Ole Tuyoto.

The Application was opposed by the interested party who is the Plaintiff in Narok Chief Magistrate Court ELC Civil Suit No. 123 of 2019. The interested party contends that he is the registered proprietor of land parcel Cis Mara/Ilmashariani Morijo/1230 and that the said parcel of land is not subject to litigations in the suit before the High Court now that he joined the said suit.

I have read the application before me and the submissions filed by counsel on the same. I must point out that the instant application is one that was filed after the conclusion of a long time consuming and protracted hearing and the substantive suit was awaiting judgment. The Applicants are seeking the court's discretion to stay the proceedings of the lower court pending the determination of the substantive suit before the High Court. The Applicants are relying on the fact that the suit before the lower court relates to land parcel Cis Mara/Ilmashariani Morijo/1230 which they contend arose out of the sub-division of land parcel Cis Mara/Ilmashariani Morijo/48. However, from the pleadings and the affidavit in support I have not found any evidence to show either by way of mutations forms or maps that indeed the same was a sub-division of the subject land in the instant suit. Further to the above the Applicants have not demonstrated to the court the interest they have in the matter and from the above reasons, I find that the application is not merited and I thus dismiss the same with costs.

DATED, SIGNED and DELIVERED in open court at NAROK on this 16TH day of DECEMBER, 2019

Mohammed Kullow

Judge

16/12/19

In the presence of: -

CA:Chuma/Kimiriny

Mr Langat holding brief for Kambo for the plaintiff

N/A for the respondents

Mohammed Kullo

Judge

16/12/19