



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO.82 OF 2013

DANIEL NYAGA KAMANDE.....1ST PLAINTIFF

CHARLES KAMAU WANGUHU.....2ND PLAINTIFF

JANE WANGARI KIBE.....3RD PLAINTIFF

VERSUS

NGUCANIRIO FARMERS COMPANYDEFENDANT

AND

JOSEPH WACHIRA WANENEINTERESTED PARTY

JOSEPH MAINA KINGORIINTERESTED PARTY

DIRECTIONS

1. This case was heard and judgment delivered on 22 October 2004 by Ojwang' J (as he then was). Judgment was entered for the plaintiff against the named defendant, Ngucanirio Farmers Company Limited. When the plaintiff moved to execute the judgment, in the form of eviction of the persons on the suit land, thought to comprise of members of the defendant, various persons filed applications to be enjoined in this case, claiming that they ought not to be affected by the judgment, since Ngucanirio Farmers Company Limited does not exist and that the judgment is fraudulent.

2. I felt the need to satisfy myself as to whether or not, there is a company registered as Ngucanirio Farmers Company limited, and summoned the Registrar of companies who sent a representative. The information provided by the Registrar of Companies, is that there is no limited liability company, or indeed any incorporated company, bearing the name Ngucanirio Farmers Company Limited. What exists is a business name registered as Ngucanirio company, with 6 persons as proprietors. I was satisfied that Ngucanirio Farmers Company Limited does not exist.

3. I have seen a ruling in this matter, delivered by Odunga J, on 3 July 2012, pursuant to an application filed by one of the interested parties, seeking to stop enforcement of the judgment against them. In his ruling, Odunga J, "set aside the judgment and consequential orders emanating therefrom in so far as the same affect the interested parties..."

4. The import of the above ruling, is that it will be extremely difficult, if not impossible, for the plaintiff

to execute the judgment against the individuals occupying the suit land, as the judgment was not obtained against them, but against a non-existent entity. Indeed, I do hold that this judgment cannot be enforced upon them as they are not members of Ngucanirio Farmers Company Limited.

5. I think the plaintiff may need to consider filing a fresh suit, against the persons occupying the ground, if he feels that he has any claim against them. As I have directed, this judgment cannot be executed against them.

6. I make no orders as to any costs incurred over these directions.

7. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 28th day of February 2018.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU

In the presence of:

Mr. Muthee holding brief on the part of M/s Nyachiro & Co. for the plaintiff.

Mr. Mboya for defendant and 6th Interested Party.

Peter Kinuthia - 8th interested Party

Joseph Kingari- 10th Interested Party

Other parties and Counsel - Absent

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU