



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 68 OF 2014

STEPHEN MICHUKI KIUNGA..... PLAINTIFF

VERSUS

COUNTY GOVERNMENT OF MERU.....DEFENDANT

RULING

1. Application dated 30th October, 2017 seeks the following orders:

(i) Spent.

(ii) That an order be issued, directing and compelling the defendant and its agents and/or employees, to accept payment for rates and rent from the plaintiff over L.R No. MERU MUNICIPALITY BLOCK 11/287.

(iii) That an order be issued allowing the plaintiff to cut down gravellia trees growing on L.R No. MERU MUNICIPALITY BLOCK 11/287, which trees are posing a grave danger to the members of public.

(iv) That the court do issue any such order and/or directive for purposes of enforcing the judgment of the court delivered on 21/9/2017.

(v) That to ensure peace prevails in enforcement of order No. 2 above, the O.C.S Meru Police station be directed to provide security during the exercise.

(iv) That costs be provided for.

2. The grounds in support of the application are;

(a) The plaintiff is the registered proprietor of L.R No. MERU MUNICIPALITY BLOCK II/287.

(b) The court vide its judgment delivered on 21/9/2017 affirmed the ownership of the suitland by the plaintiff.

(c) The defendant's employees have refused to accept rate and rent payment from the plaintiff for no apparent reason.

(d) The suitland is surrounded by gravellia trees along the Meru town – Gakoromone road which trees are posing a great danger to the public, especially during this rainy season.

(e) That the refusal by defendant's employees to accept payment of rate and rent, and to give a permit to fell down the gravellia trees on the suit land, is a serious affront to the plaintiff's proprietary rights over the suitland.

3. Applicant has also filed a supporting affidavit whereby he has more or less reiterated the grounds in support of the application.

4. The application is opposed vide the replying affidavit of Kibiti filed on 23.11.2017.

5. It is averred by the respondent that in the suit, applicant had not sought the prayer to compel respondent to accept rent and rates and neither was there a prayer for felling of trees.

6. I find that this court delivered a judgment in favour of the plaintiff on 21.9.2017. The court had allowed all the prayers that had been

claimed in the plaint. The present prayers were certainly not covered in the judgment or in the pleadings.

7. I am in agreement with respondent's submissions that this court is now functus officio and the prayers sought coming after the judgment and decree has been issued are misplaced.

8. The application is dismissed with costs to respondent.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 7th MARCH, 2018 IN THE PRESENCE OF:-

Court Assistant: Janet/Galgalo

Mwirigi for plaintiff/applicant

Mutegi for defendant/respondent present

HON. LUCY. N. MBUGUA

ELC JUDGE