



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA

ELC JR 1 OF 2018

IN THE MATTER OF THE REGISTRATION OF LAND ACT

AND

IN THE MATTER OF A BOUNDARY DISPUTE BETWEEN LAND PARCEL NUMBER LUMAKANDA/1647 AND LUMAKANDA/809

AND

IN THE MATTER FAIR ADMINISTRATIVE ACT

AND

IN THE MATTER OF FIXING A BOUNDARY BETWEEN LAND PARCEL NUMBER LUMAKANDA/1647 AND LUMAKANDA/809 BEFORE THE SENIOR CHIEF LUMAKANDA LOCATION ON 25TH SEPTEMBER, 2017

CHARLES N. EMBODOLIO APPLICANT

VERSUS

REPUBLIC OF KENYA.....RESPONDENT

AND

ELIAS MATASIO ALIAS JOHNSON WABOMBA

PATRICK MATONI.....INTERESTED PARTIES

RULING

This application is dated 24th February 2018 and brought under order 53 rule 1 (1) (3) (4) of the Civil Procedure Rules 2010 seeking the following orders;

1. That this matter be heard ex-parte in the 1st instance as it is urgent.
2. That the applicant be granted leave to file an application for the orders of mandamus, prohibition and certiorari.
3. That the court be pleased to order that the leave granted do act as a stay of the actions of the chief of fixing a boundary between land parcel number KAKAMEGA/LUMAKANDA/1647 and KAKAMEGA/LUMAKANDA/809 made on 25th September, 2017 till this matter is finalized.
4. That costs be provided for.

It is based on the following grounds that the chief Lumakanda location has no jurisdiction to fix a boundary of land which is registered under the laws of Kenya. That the chief violated rules of Natural justice when he acted as he did on 25th September, 2017. Applicant of the exparte applicant. I therefore grant the following orders;

1. That the applicant be granted leave to file an application for the orders of mandamus, prohibition and certiorari.
2. That the court be pleased to order that the leave granted do act as a stay of the actions of the chief of fixing a boundary between land parcel number KAKAMEGA/LUMAKANDA/1647 and KAKAMEGA/LUMAKANDA/809 made on 25th September, 2017 till this matter is finalized.
3. The main motion to be filed and served within the next 21 days.
4. That costs be in the cause.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KAKAMEGA IN OPEN COURT THIS 30TH DAY OF MAY 2018.

N.A. MATHEKA

JUDGE