



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

CONSTITUTIONAL PETITION NO. 174 OF 2011

NZIOKI MBONDO.....PETITIONER

VERSUS

THE MINISTER FOR LANDS &

SETTLEMENT.....1ST RESPONDENT

THE DISTRICT LAND ADJUDICATION &

SETTLEMENT OFFICER.....2ND RESPONDENT

THE HON.ATTORNEY GENERAL.....3RD RESPONDENT

AND

DANIEL KABERIA.....INTERESTED PARTY

JUDGMENT

1. The petitioner filed this Petition dated 7th December 2011 on 8/12/2011.

(a) A declaration that Land Parcel No. 1408 within Kiengu/Kanjoo Adjudication Section measuring 5.0 acres belongs to the petitioner.

(b) An order of judicial review in the nature of orders of mandamus compelling to reflect the petitioner as the true legal owner of the said land parcel number 1408 within Kiengu/Kanjoo Adjudication Section in the Adjudication Register.

(c) Costs of this petition.

2. An application was made to amend the petition and orders were made allowing the application on 8/10/12. In the proposed amended petition the following orders were reflected:

(a) A declaration that Land Parcel No. 1408 within Kiengu/Kanjoo Adjudication Section measuring 5.0 acres belongs to the petitioner.

(a.1)An order of judicial review in the nature of prohibition to prohibit the law adjudication officer Kiengu/Kanjoo Adjudication Section from in any way interfering with the petitioner Land Parcel No. 1408 within Kiengu/Kanjoo Adjudication Section in the Adjudication Register.

(b) An order of judicial review in the nature of orders of mandamus compelling the Land Adjudication Officer of Kiengu/Kinjoo Adjudication Section to reflect the petitioner as the true legal owner of the said land Parcel No. 1408 within Kiengu/Kanjoo Adjudication Section in the Adjudication Register.

(c) Costs of this petition.

3. However, no amended petition was filed and served within 14 days of 8/10/2012 as ordered by the court on 8/10/12. Had this matter proceeded to hearing it would have been on the basis of the first petition that was filed on 8/12/2011.

4. The Interested Party had already filed his defence by way of a replying affidavit dated 14/12/2011 on the 15/12/2011. There is no response on behalf of the 1st, 2nd and 3rd respondents on the record.

5. There is no need to delve into the nature of petitioner's claim or the interested party's defence to the petition for the reasons stated herein below.

6. On the 21/2/2018 when the parties' counsel appeared before court this court gave an order as follows:

“Limbs no. 1,2, and 3 of the consent order adopted by the court on 21/6/2017 are to apply with effect from today as the effective date.

If the petitioner does not file his written submissions within 30 days , or having filed failed(sic) to serve the same, this petition shall stand automatically dismissed for want of prosecution.

The matter will be mentioned before the DR on 26/4/2018 to ascertain compliance and dispatch of file to Kitale for the writing of judgment. ”

7. On 26/4/2018 the matter came up before the Deputy Registrar who noted that no submissions had been filed by the petitioner as ordered and promptly dispatched the file to Kitale.

8. I find that owing to what has been outlined above the petitioner has failed to prosecute the petition. I hereby order that this petition is dismissed for want of prosecution.

Dated, and signed at Kitale on this 1st day of August, 2018.

MWANGI NJOROGE

JUDGE

ENVIRONMENT AND LAND COURT, KITALE

Delivered at Meru on this 29th day of August, 2018 in open court in the presence of:

Mr. Mutunga holding brief for Anampiu for interested party

N/A for the petitioners

Mr. Kiongo for respondents

C/A Mutua

MWANGI NJOROGE

JUDGE

ENVIRONMENT AND LAND COURT, KITALE.