



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MILIMANI LAW COURTS

ELC SUIT NO. 149 OF 2017

MARIONSON HOLDINGS LIMITED T/A

MARION PREPARATORY SCHOOL.....PLAINTIFF

=VERSUS=

CYRUS NGUGI MUGOYA.....1ST DEFENDANT

SAMUEL KAMAU WAWERU.....2ND DEFENDANT

JOHN THUO KABUTHA.....3RD DEFENDANT

PAUL WACHIRA IREGI.....4TH DEFENDANT

RULING

1. This is a ruling in respect of a Notice of Motion dated 27th March 2018. The application is brought by the plaintiff/applicant and it seeks review of this court's ruling delivered on 8th March 2018. The applicant had filed an application dated 6th March 2017 in which it sought injunctive orders against the respondent from alleged encroachment on its property. This application was dismissed on 8th March 2018.

2. The applicant has now come to court seeking review of the ruling of 8th March 2018. The applicant contends that the court was misled by the respondents thus arriving at a wrong conclusion. It is on this ground that the applicants want the ruling delivered on 8th March 2018 reviewed and an injunction granted in its favour.

3. The respondents have opposed the applicant's application based on replying affidavit sworn on 23rd May 2018. The respondents contend that the applicant's application is an abuse of the process of the court; that there are no grounds shown for review of the ruling and that the applicant has repeated the grounds which it had raised in the application which was dismissed.

4. I have considered the applicant's application as well as the opposition thereto by the respondents. I have also considered the submissions by the parties herein. The only issue for determination is whether the applicant has shown ground for review of the ruling delivered on 8th March 2018. The grounds for review are well set out under order 45 of the Civil Procedure rules. The grounds are error apparent on the face of the record, discovery of new and important evidence or any sufficient cause.

5. In the instant case, the applicant is contending that I was misled by the averments by the respondent thus arriving at a wrong conclusion. Whether I reached a correct or wrong conclusion is not a ground for review. This may be a good ground for appeal but certainly it is not a ground for appeal. The applicant has not brought any new evidence which it was unable to produce at the time of hearing which culminated in the ruling being impugned. I do not find any merit in this application which is hereby dismissed with costs to the respondents.

It is so ordered.

Dated, Signed and Delivered at Nairobi on this 20th day of December 2018.

E.O.OBAGA

JUDGE

In the presence of;-

.....

.....

Court Clerk : Hilda

E.O.OBAGA

JUDGE