



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU

PETITION NO 15 OF 2013

REMUS CYPRIAN BANU SAIMON MUTURI

Alias REMUS BANU MUTURI.....PETITIONER/APPLICANT

VERSUS

STEPHEN NTURIBI ITIRIKIA.....RESPONDENT

R U L I N G

1. The Notice of Motion dated 22nd July, 2015 seeks the following orders:-

1. That the petitioner /applicant be authorized to obtain a certified copy of the original MAP SHEET NO. 108/4/6/4 for Akithi 111 Adjudication Section from the DIRECTOR OF SURVEY and a certified copy of the records for Akithi 111 Adjudication Section from the DIRECTOR OF LAND ADJUDICATION in Nairobi at his own expense, for purposes of ascertaining the location and sizes of land parcel No. 1388 and Plot No. 30, both situated in Akithi 111 Adjudication Section , and the purported plot (land parcel) No. 30, both situate in Akithi 111 Adjudication Section, and the purported plot (land parcel) No. 4331, allegedly situated adjacent to the petitioner's /applicant's land parcel No. 1388.

2. THAT cost of the application be provided for:

2. The application is based on the grounds:-

i. That the respondent alleges that his plot No. 30 measures 62 by 80 feet on the ground, yet it actually measures 40 by 80 feet only.

ii. That the respondent alleges that his plot or land parcel No. 4331 is adjacent to the petitioner's /applicant's land P/No. 1388, yet it is not true.

iii. That the Map Sheet No 108/4/6/4 and records for Akithi 111 Adjudication Section were forwarded to the Directors of Survey and Land Adjudication in Nairobi.

iv. That the said map and records are needed to ascertain the disputed locations and sizes.

v. That the application is brought in the interest of justice, to enable the court unearth the actual facts about this matter, and shall not prejudice the respondent at all.

3. Applicant filed a Supporting Affidavit where he has deponed as follows:-

(1) That the respondent has alleged that his plot No. 30 measures 62 by 80 feet and that he has a plot No. 4331, adjacent to the applicants suit land parcel No. 1388.

(2) That to the best of the applicants knowledge , the respondent's plot No. 30 measures 40 by 80 feet as attested to by a letter from the County Government of Meru as per annexure "RCBI".

(3) That the respondent alleged land P/No. 4331 is not adjacent to the applicant's land P/No. 1388 (the suit land).

(4) That applicant had gone to the local adjudication office, and he was informed that the maps and records for Akithi 111 Adj. Section were forwarded to the Director of Land Adjudication at Nairobi for verification and issuance of title deed, as per a letter annexure "RCB2".

(5) That it is only the said map and records which can certainly attest to the actual location and sizes of land P/no. 1388, Plot No. 30 and the alleged plot (land parcel) No. 4331.

(6) That when applicant went to Nairobi he was advised to obtain a court order so as to be given those records.

(7) That applicant desires to obtain certified copies of the said map and records for use in this matter, else, the court shall not verify who between applicant and the respondent is truthful, regarding the locations & sizes of land P/No. 1388, Plot No. 30 & the alleged plot No. 4331.

(8) That unless the said map and records are availed, applicant risk to be prejudiced, since the respondent has blocked the access road and built a pit latrine onto a portion of applicants land P/No. 1388, purporting it to be his alleged but non-existent plot (land parcel) No. 4331 and alleging that his plot No. 30 measures 62 by 80 feet, yet it actually measures 40 by 80 feet only.

(9) That the respondent shall not in any way, be prejudiced by the orders sought for.

4. On 30/9/2015 directions were given by the court in presence of the counsels for the parties to the effect that the application was to be canvassed by way of written submissions. Since then ,the matter has come up on several occasions generally to vary directions on the time lines of filing submissions.

5. When the matter came up before me on 20/2/2017, the court was informed that Respondents counsel had been served but was absent. By the only the applicant had filed submissions. This application stands as unopposed. The court has also seen annexure R.C.B.2 which on the face buttresses the applicants averments. The said document is a letter from the District Land adjudication officer , Tigania which shows that the maps and records have been forwarded to the Director.

6. I therefore find that the application has merits. The application is hence allowed in terms of prayer 1, with no orders as to costs.

DELIVERED IN OPEN COURT AT MERU THIS 4TH DAY OF APRIL , 2017 IN THE PRESENCE OF:-

C:A Janet

L.N MBUGUA

JUDGE