



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MERU

MISC. APPL. NO. 75 OF 2016

JULIUS MUTEMBEI MUTUNGURU.....PLAINTIFF

VERSUS

DLASO TIGANIA WEST.....1ST RESPONDENT

HON. ATTORNEY GENERAL.....2ND RESPONDENT

RULING

1. The Notice of Motion dated 14th September, 2016 seeks the following orders:-

1. That this application be deemed of utmost urgency and be heard on a priority basis.

2. That the 1st Respondent be compelled to provide the Applicant with all documents relating to Land Proceedings in the parcels of Land Adjudication numbers 1498 and 2288 in Uringu 11 Adjudication that led to their subdivision and subsequent registration as Title Numbers TIGANIA WEST URINGU 11/1498, 6176, 3205, 6156, 6157, 110, 2842 and 3469 and title numbers Tigania West Uringu 11/2288 and 1791 Respectively.

3. That the 1st Respondent be compelled to reveal the names of the purported registered owners of the parcels of land Title Numbers TIGANIA WEST URINGU 11/1498, 2288, 6156, 6157, 110, 3469, 6176, 3205, 2842 AND 1791.

4. That the 1st Respondent bear the costs of this application.

2. The Application is based on the grounds:-

a. The Applicant has for a period of 16 years been the registered /recorded owner of the parcel of Land Adjudication Numbers 1498 and 2288 in Uringu 11 Adjudication section and is in occupation of the land.

b. The Applicant undertook the process of subdividing his Parcel of Land Adjudication Number 1498 in Uringu 11 Adjudication Section into parcel of Land 1498, 6156, 6157, Number 1498 in Uringu 11 Adjudication Section into parcels of Land 1498, 6156, 6157, 110 and 3469 Uringu 11 Adjudication Section but has found that this parcel of Land (1498 Uringu 11 Adjudication Section) has been further subdivided into 8 parcels without his knowledge or consent and parcels of Land constituting the whole of his parcel of land registered as Title Numbers Tigania West Uringu 11/

1498, 6156, 6157, 110, 3469, 6176, 3205 and 2842 and further his parcel of Land Adjudication Section 2288 in Uringu 11 Adjudication Section has been subdivided and registered as Land Title Numbers Tigania West Uringu 11/2288 and 1791.

c. Due to the above action the Applicant is apprehensive that even the Land title Numbers 6156, 6157, 110, 3469 and 2288 may be registered in the names of people who are strangers to him.

d. The Applicant wishes to file suit to have the matters as to ownership, area and identification of the Parcel of Land determined in court but would need to have the names of the people registered as owners of the parcels of Land Title Numbers Tigania West Uringu 11/1498, 2288, 6156, 6157, 110, 3469, 6176, 3205, 2842, and 1791 which information is solely in the hands of the 1st respondent.

e. The 1st Respondent has frustrated the Applicant's attempts to obtain the information necessary to be able to take this matter to Court and the Applicant is apprehensive that this refusal may be in order to effect or conceal fraudulent actions.

f. The information the Applicant is seeking is public information and as a Citizen of Kenya the Applicant has a right to receive it from the 1st Respondent which is a part of the Government of Kenya.

g. With each passing day the threat of the Applicant's right being infringed due to non-disclosure of this information becomes more and more imminent.

3. The application was served upon the Attorney General but no response was filed. I find that applicant has given a plausible account of why he needs the document. He desires to file suit in order to have the issue of ownership determined. It's only fair and just that he should get the said documents .. Pursuant to provisions of article 35(1) of the constitution;

“every citizen has a right of access to information held by the state and information held by another person and required for the exercise or protection of any right or fundamental freedom...”

4. The application is allowed with no orders as to costs.

DELIVERED, DATED AND SIGNED AT MERU THIS 30TH DAY OF MAY, 2017 IN THE PRESENCE OF:-

CA: Janet

Kiango for 1st and 2nd Respondent

Mutunga h/b for Mbaabu Inoti for Applicant

HON. L. MBUGUA

JUDGE