



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT MOMBASA
MISC APPLICATION NO 15 OF 2017

- 1. SULEIMAN SAID MWAKULALA**
- 2. HAMISI ALI CHIREMA**
- 3. REHEMA ALI DZIRUMU**
- 4. FATUMA SALIM MOHAMMED**
- 5. SAID RAJABU MWASIPHO.....PLAINTIFFS/APPLICANTS**

VERSUS

- 1. LEO KATUGA T/AKATUGA**
- & COMPANY ADVOCATES.....RESPONDENTS/DEFENDANTS**

RULING

1. This is the notice of Motion dated 23rd February 2017. It is brought under section 47 of the advocates act any other enabling provisions of law. It seeks orders that;

1) Spent

2) An order of this court do issue to compel the respondent to forthwith and unconditionally releases to the applicants new advocate Mr. Isaac Onyango & Company Advocates the original title deed and all the other completion documents handed over to the respondent pursuant to the sale agreement dated July 16th 2016 between the applicants and one John Muthini Kamia and relating to the sale of all that place of land known as Kwale/Ukunda/4501.

3) The respondent be directed to provide detailed account to provide detailed account of the monies received and held on account of the applicants as deposit towards the purchase price and release forthwith and unconditionally all the balance held on account of the applicants to the applicant new advocates.

4) In the alternative and strictly without prejudice to the foregoing the respondent to be directed to pay the balance of the purchase prices together with interest at bank rates 14.5% from July 16,2015.

5) Costs of the application be provided for.

2. The grounds relied upon are on the face of the application. The application is supported by the affidavit of Suleiman Said Mwakulala the 1st applicant herein sworn on the 23rd February 2017.

3. The application is opposed. There are grounds of opposition filed by the respondent dated 14th March 2007.

4. I have considered the Notice of Motion and the supporting affidavit together with the annexures. I have also considered the grounds of opposition filed by the respondent. I find that the supporting affidavit raises weighing issues. The respondent does not deny that he acted for both vendors and the purchasers. I find his grounds of opposition amount to mere denials.

I find that the applicants have made out a prima facie case against the respondent to warrant the orders sought. I hereby grant the orders as follows;

a) THAT the respondent is hereby compelled to forthwith and unconditionally release to the applicant's new Advocate Mr. Isaac Onyango and Company, the original title deed and all the other completion documents handed over to the respondent pursuant to the sale agreement dated 6th July 2016 between the applicant and on John Muthini Kamia and relating to the sale of all that price of land known as KWALE /UKUNDA/4501.

b) THAT the respondent is hereby directed to provide a detailed account of the monies received and held on account of the applicants as deposit towards the purchase price and release forthwith to the applicants new advocates.

c) I make no orders to costs.

Order according

Dated and signed on the 29th day of June 2017 at Mombasa.

L. KOMINGOI

JUDGE

29/6/17

Ruling dated and delivered in open court on the 29th day of June 2017 in the presence of Mr. Tiaty for Mr. Onyango for the applicants and the court assistant Koitamet.

L. KOMINGOI

JUDGE

29/6/17