

REPUBLIC OF KENYA

IN THE ENVIRONMENT & LAND COURT OF KENYA

AT MILIMANI

ELC CASE NO. 187 OF 2017

KAMUTHI HOUSING CO-OPERATIVE SOCIETY LIMITED...PLAINTIFF/APPLICANT

=VERSUS=

HON. AMOS MBUTHIA MUKAMI.....DEFENDANT/RESPONDENT

RULING

1. The Plaintiff/Applicant is the registered owner of LR No. 71/7/10(I.R No.178537) measuring 8.891 hectares. The applicants obtained title to this property on 6th July 2016. In or around 1st March 2017, the respondent who was the member County Assembly of Kahawa Ward instigated some unknown persons who invaded the property and started subdividing it for themselves.
2. The applicant reported the invasion to Kiamumbi Police Station. The respondent was summoned to Kiamumbi Police Station but he did not attend. The respondent continued to dish out the applicant's land to unknown persons even after the case was reported to the police. A notice warning the members of the public to be aware of the fraudulent sub-division was put up in the press.
3. The respondent who was served through substituted service entered appearance through an advocate but did not file any grounds of opposition or replying affidavit. The averments in the applicant's supporting affidavit therefore remain uncontroverted.
4. I have looked at the supporting affidavit and the annexed documents. Among the documents is a certificate of title which shows that the applicant was registered as owner of the property on 6th July 2016. The documents filed by the applicant show that the property was being used as a sewage but was recently given back to the applicant as an out of court settlement of a long outstanding issue. The applicant has not disclosed the nature of this outstanding issue. However be that as it may, the applicant has demonstrated that prima facie, it is the registered owner of the property. I therefore allow the applicant's application in terms of prayer *Four (4),Six (6) and Seven (7)* of the Motion dated 20th March 2017.

It is so ordered.

Dated, Signed and delivered at Nairobi on this 17th day of October, 2017.

E.O.OBAGA

JUDGE

In the presence of :

Mr MC'Ronald for Mr Washe for applicant

Court Assistant: Steve

E.O.OBAGA

JUDGE