



Rapemo & 2 others v Land Registrar, Rachuonyo South & 3 others (Environment and Land Miscellaneous Application E004 of 2024) [2024] KEELC 885 (KLR) (26 February 2024) (Ruling)

Neutral citation: [2024] KEELC 885 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E004 OF 2024
GMA ONGONDO, J
FEBRUARY 26, 2024

BETWEEN

PATRICK AWUOR RAPEMO 1ST APPLICANT

SYLVESTER OMONDI AWUOR & ANOTHER 2ND APPLICANT

AND

**THE LAND REGISTRAR, RACHUONYO SOUTH AND SUB
COUNTY 1ST RESPONDENT**

**SUB COUNTY SURVEYOR, RACHUONYO SOUTH & 2
OTHERS 2ND RESPONDENT**

RULING

1. By chamber summons application dated 25th February 2024 under certificate of urgency, the ex parte applicants through Onyango Jonyo and Company Advocates are seeking leave to apply for judicial Review in form of certiorari, prohibition and mandamus against the respondents in respect of their decision contained in a report reference number SOK/RACH/FR/VOL II/068 made on 23rd January 2024 in respect of Land title numbers Central Kasipul/Kawere Kamagak/1451, 1453, 1557 and 1558 vis a vis Land title number West Kasipul/ Kawere Kamagak/ 1452.
2. I have taken into account the entire application including grounds 1 to 15 set out on it's face and the accompanying statements and verifying affidavits of the ex parte applicants.
3. Further, I bear in mind the powers of the court under sections 1A, 1B, 3, 3A of the *Civil Procedure Act* Chapter 21 Laws of Kenya, sections 3 and 19 of the *Environment and Land Court Act*, 2015 (2011) alongside Order 53 Rules 1 (1) and (2) and 4 of the *Civil Procedure Rules*, 2010; see also *Baiywa-vs-Bach* (1987) KLR 89 and *Oraro-vs-Mbaja* (2005) 1 KLR 142 at 149/150..



4. Moreover, I consider the nature of the application and the interest of justice under, inter alia, Articles 40, and 159 (2) (b) of *the Constitution* of Kenya, 2010.
5. Thus, I order and direct that;
 - a. The application is certified as urgent.
 - b. Leave sought to apply for judicial review in the form of certiorari against the respondents as per prayer 2 (a) and prohibition as captured in prayers 2 (b.) 2 (c) and 2 (d) of the application, granted accordingly.
 - c. Leave to apply for judicial review in form of mandamus against the respondents as envisioned in prayer 2 (e) of the application, hereby granted.
 - d. Leave granted to apply for certiorari, prohibition and mandamus herein, to operate as stay of the report of the 1st and 2nd respondents as prayer 2(f) of the application is granted accordingly.
 - e. Costs of the application to abide the outcome of the prospective substantive application.
6. The ex-parte applicants' counsel to file and serve the substantive application within 21 days from this date.
7. Mention on 9th April 2024 to confirm compliance and for any further orders.
8. It is so ordered.

DELIVERED, DATED AND SIGNED AT HOMABAY THIS 26TH DAY OF FEBRUARY 2024

GEORGE M.A ONG'ONDO

JUDGE

Present.

Court Assistant, Fiona Mutiva.

