



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO 587 OF 2013

DAVID KURIA KIMANIPLAITNIFF

VERSUS

NATIONAL BANK OF KENYA LTD.....1ST DEFENDANT

JOHN MWAURA WANYOIKE.....2ND DEFENDANT

RULING

(Application by intended interested party; applicant claiming interest in suit property; however documents displayed show reference to another property; no demonstration that his documents refer to the suit land; no interest shown; application dismissed).

1. The application before me is that dated 10 October 2014 filed by one Salim Kimaru Njau, who wants to be enjoined into these proceedings as an interested party. It is his position that he has a vested interest over the suit property, which is Gilgil Township Block 2/220, by virtue of being allottee.

2. In this suit, the plaintiff, David Kuria Kimani, has sued the defendants claiming that he is the person legally entitled to own this plot. The title to the same was however issued to the 1st defendant, National Bank of Kenya Limited, who later sold it to the 2nd defendant. In his suit, the plaintiff wants a declaration that he is the bona fide allottee of the suit property.

3. I have carefully looked at the application by the intended interested party. He has in his supporting affidavit stated that he is the administrator of the estate of Hannah Muthoni Njau (deceased). He has annexed a confirmed grant of letters of administration. He has averred that the suit property was allocated on 13 July 2004 by the then County Council of Nakuru and that he has been paying rates over the same land. He has annexed some receipts for these. He has further deposed that the County Council of Nakuru issued him with a clearance certificate to the subject land, which copy he has annexed.

4. I have perused these documents. The confirmed grant of letters of administration does not contain the suit property as part of the distributed estate of Hannah Muthoni Njau. What I can see is a parcel of land described as Soitot Settlement Scheme Plot No. 35. I have also seen what the applicant has termed to be an allotment letter to the suit property. It is dated 13 July 2004. From what I can discern, it is seemingly an allotment of a plot described as Plot No. 1317 G/Township situated in Gilgil. The payment receipts annexed by the applicant are said to be for Plot Rents issued by the County Council of Nakuru. What I can see is that they refer to land described as Block 3/330 Plot No. 283 and in some documents Block 3/330 Gilgil . The Land/Plot Rates Clearance Certificate shows the land Gilgil Town Block 3/330. There

are other receipts issued in the year 1983 and which are annexed but they do not show any plot number.

5. The suit property herein is Gilgil Township Block 2/220. The applicant has not demonstrated to me the connection between the plot Gilgil Town Block 3/330, which his documents show, and the suit property herein which is Gilgil Township Block 2/220. I am unable to tell from the material presented by the applicant that the reference is to the same land.

6. I am afraid that the applicant has not revealed to me any interest that he may have over the land described as Gilgil Township Block 2/ 220. In as much as the plaintiff and defendants in this matter did not oppose the subject application, having not been persuaded that the applicant has any interest in the suit property, I have no option but to dismiss this application. However I make no orders as to costs as the other parties were actually keen to allow it.

7. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 9TH day of March, 2016.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU

In presence of: -

Mr. Ngamate for applicant

Mr. Geoffrey Otieno for plaintiff

CA: Janet

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU