



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NYERI

JUDICIAL REVIEW APPLICATION NO. 5 OF 2016

IN THE MATTER OF AN APPLICATION TO APPLY FOR LEAVE FOR

JUDICIAL REVIEW ORDERS OF PROHIBITION AND CERTIORARI

AND

IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTION ACT 2015,

THE LAND ACT 2012, LAND REGISTRATION ACT 2012, NATIONAL LAND

COMMISSION ACT 2012, THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF TITLE NUMBER NANYUKI MUNICIPALITY BLOCK 8/768

RAHAB WANGUI.....APPLICANT

VERSUS

CHIEF LAND REGISTRAR.....1ST RESPONDENT

DISTRICT LAND REGISTRAR LAIKIPIA.....2ND RESPONDENT

AND

NATIONAL LAND COMMISSION.....1ST INTERESTED PARTY

ROBERT MYALI.....2ND INTERESTED PARTY

RULING

By her Chamber Summons filed herein on 12th April 2016, the Ex-parte applicant seeks the following orders:-

- 1. That the applicant be granted leave to bring an action for certiorari quashing the decision of Chief Land Registrar and the District Land Registrar Laikipia (the 1st and 2nd respondents herein) in respect of L.R. No. NANYUKI MUNICIPALITY BLOCK 8/768 in awarding title to*

the 2nd interested party herein while there already existed an earlier title held by the applicant.

2. That leave so granted do operate as a stay of any other dealings in respect of the said title L.R No. NANYUKI MUNICIPALITY BLOCK 8/768 in any manner whatsoever until the hearing and final determination of this application and the substantive application or until the Judge otherwise orders.

3. That costs of this application be provided for.

The application is supported by the applicant's statement of facts, affidavit verifying the same and several annextures.

From what I can glean in those documents, the applicant has since 18th June 2003 been the registered proprietor of land parcel No. NANYUKI MUNICIPALITY BLOCK 8/768 (the suit property) the same having been allocated to her in 1998. However, on 9th March 2015, the 2nd interested party trespassed onto the suit property and so the applicant filed **NYERI ELC CASE NO. 100 OF 2015** and during the pendency of that suit, the 2nd interested party unlawfully and un-procedurally obtained from the 1st defendant a lease dated 21st December 2015 and a certificate of lease dated 15th February 2016 from the 2nd respondent. That that action was not only un-lawful and ultra vires but also, the applicant had a legitimate expectation that upon instituting the **NYERI ELC CASE NO. 100 OF 2015**, any processes touching on the suit property would remain in abeyance awaiting the determination of the case.

I have considered the application and looked at the documents in support thereof. Prima facie, I am persuaded that the applicant is entitled to the orders sought in her Chamber Summons aforesaid.

I accordingly make the following orders:-

1. Leave is granted as prayed therein.

2. The leave shall operate as a stay of other dealings in respect to the title to the suit property until the hearing and determination of the substantive Notice of Motion to be filed herein or until further orders.

3. The said Notice of Motion be filed within 21 days from the date hereof.

4. Costs in the cause.

B.N. OLAO

JUDGE

14TH APRIL, 2016

Ruling delivered this 14th day of April, 2016 in open Court

Mr. Munene for Mr. Ng'ang'a for Applicant present.

B.N. OLAO

JUDGE

14TH APRIL, 2016

