



Morop Company Limited v Committee - Kambi ya Moto Primary School; Chesang (Interested Party) (Administrator of the Estate of Kiplenge Chesang (Deceased)) (Environment & Land Case 109 of 2012) [2015] KEELC 848 (KLR) (18 February 2015) (Ruling)

Morop Co Ltd v Committee Kambi Ya Moto Primary School & another [2015] eKLR

Neutral citation: [2015] KEELC 848 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 109 OF 2012**

M SILA, J

FEBRUARY 18, 2015

BETWEEN

MOROP COMPANY LIMITED PLAINTIFF

AND

COMMITTEE - KAMBI YA MOTO PRIMARY SCHOOL DEFENDANT

AND

LAITON CHESANG INTERESTED PARTY

ADMINISTRATOR OF THE ESTATE OF KIPLENGES CHESANG (DECEASED)

(Application seeking joinder as interested party; applicant stating that he is administrator of the owner hence need to join the proceedings as interested party; no proof of death; no proof that applicant holds the grant of letters of administration; application struck out)

RULING

1. The application before me is that dated 23 February 2014 filed by one Laiton Chesang, who seeks to be enjoined to these proceedings as an interested party.
2. The genesis of this suit is a plaint filed on 7 November 2002. The plaintiff is Morop Company Limited, a limited liability company whereas the defendant is the School Committee of Kampi Ya Moto Primary School. The case of the plaintiff is that in the year 1973, it acquired the land parcel Kampi ya Moto/ Kampi ya Moto/Block 1 formerly LR No. 8378/3 which land is approximately 1980 acres. The land was acquired for the shareholders of the plaintiff company. It is averred that in October 2002, the defendant unlawfully entered the plot No. 67, which land measures 20 acres, and started constructing on it. It is the case of the plaintiff that this is trespass. The plaintiff has sought a permanent injunction



and an eviction order against the defendant. The defendant filed defence in which the claims of the plaintiff are denied. Further the defendant pleaded that it has been on the suit land for over 35 years.

3. The plot No. 67 seems to have become formally registered as Kampi ya Moto/ Block 1/67. The registered proprietor is one Kiplenge Chesang . Laiton Chesang, who has filed this application, has stated in the supporting affidavit to his application, that he is the legal administrator of the Estate of Kiplenge Chesang, who is said to be deceased. He has stated that the Estate will suffer irreparable loss if it is not enjoined as a party.
4. On the day of the hearing of the application, Mrs. Ndeda appeared for the applicant whereas Ms. Nancy Njoroge held brief for Mr. Olonyi for the plaintiff. Mr. Mbaka of the State Law Office appeared for the defendant. None of the counsels opposed the application.
5. I have considered the application. Although none of the parties has opposed it, I am inclined to disallow it. I have seen from the annexed title that the land parcel Kampi ya Moto/ Block 1/67 is in the name of Kiplenge Chesang. It is said that he is now deceased but there is no Certificate of Death, or other proof, to show that he is deceased. Although the applicant has described himself as administrator of the estate of Kiplenge Chesang, there is not attached any proof that he holds letters of administration. Without these critical documents I regret that I am unable to allow the application. If these documents would have been availed, I would not have had difficulty in allowing the application, for I can see for myself that Kiplenge Chesang, being owner of a land parcel in issue, is clearly an interested party. But for want of proof of death and lack of proof of capacity, I have no option but to strike out this application. A proper one may be filed later.
6. Since the application was not opposed, I make no orders as to costs.

It is so ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT NAKURU THIS 18TH DAY OF FEBRUARY 2015.

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT

AT NAKURU

In the presence of : -

Ms Jennifer Ndeda for intended interested party/applicant

N/A for M/s Olonyi & Co for plaintiff

N/A for State Law office for defendant

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT

AT NAKURU

