



REPUBLIC OF KENYA



Motuka v Land Registrar Nyamira & 3 others (Environment & Land Case E006 of 2022) [2024] KEELC 1077 (KLR) (19 February 2024) (Ruling)

Neutral citation: [2024] KEELC 1077 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
ENVIRONMENT & LAND CASE E006 OF 2022**

JM KAMAU, J

FEBRUARY 19, 2024

BETWEEN

PAUL OMBONGI MOTUKA PLAINTIFF

AND

THE LAND REGISTRAR NYAMIRA 1ST DEFENDANT

DAVID ONGERI NYANDWARO 2ND DEFENDANT

EKERUBO FARMERS CO-OPERATIVE LTD 3RD DEFENDANT

THE ATTORNEY GENERAL OF KENYA 4TH DEFENDANT

RULING

1. The dispute herein concerns the parcel of land known as Ekerubo Settlement Scheme/34 which the Plaintiff claims was at all material times registered in the names of the 2nd Defendant and himself. But that the 2nd Defendant has now written to the 1st Defendant to the effect that the Title Deed be cancelled so that this name is removed and the Plaintiff seeks that the above instructions are not acted upon.
2. On the contrary the 2nd and 3rd Defendant deny this and claim that the Title Deed was issued in error for want of probate which the 1st Defendant should correct.
3. The issue then turned to be that of boundary dispute and on 10/5/2023 I ordered the Land Registrar to visit the suit land for purposes of determining the boundaries of the parcel of land before hearing the case. The same was filed on 8/11/2023. It is dated 7/11/2023.
4. The Report states that Ekerubo Settlement Scheme/34 was resurveyed on 24/10/2023 showing a sketch of the same. The acreage of the parcel of land is 50 Acres.
5. Subsequently, the Plaintiff filed his comments on the same on 29/11/2023 and the 2nd and 3rd Defendants filed theirs on 13/12/2023. While the Plaintiff urged that the Road of access to the suit



land should be fixed on the ground and beacons along the external boundary fixed, the 2nd and 3rd Defendants urge that there is no such need because there is already another road of access and that as for the external boundary the same is already fixed.

6. In the premises I invite the parties to have the case fixed for Hearing. Each party is at liberty to call the Land Registrar for cross-examination on the Report. This is the order of the court.

RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 19TH DAY OF FEBRUARY 2024.

MUGO KAMAU

JUDGE

In the presence of: -

Court Assistant - Brenda

Mr. Rono for the Plaintiff

Mr. Ondigo for the 2nd and 3rd Defendants.

Mr. Nderitu for the 1st and 4th Defendants

