



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO 428 OF 2013

JAMES GICHURE KIONGA.....PLAITNIFF

VERSUS

PATRICK NJOGU MICHANJO.....1ST DEFENDANT

TRANSITION AUTHORITY(Sued on behalf of

NAIVASHA MUNICIPAL)2ND DEFENDANT

RULING

(Application to strike out a party to suit; application not opposed; application allowed)

1. The suit herein was commenced on 18 June 2013. The case of the plaintiff is that on 14 August 1986, he purchased a residential plot No. 681 Site & Service Scheme, Kabati in Naivasha, from one Joseph Kagotho Kenja and that the transfer was effected at the offices of the Naivasha Municipal Council on 9 November 1995. It is pleaded that in February 2011, the plaintiff discovered that the plot had been transferred to the 1st defendant by the Naivasha Municipal Council on 1 August 2001. In this suit, the plaintiff has sought a declaration that the suit land belongs to him, and that the transfer by the Naivasha Municipal Council to the 1st defendant, be nullified.

2. The named defendants are Patrick Njogu Michango and the Transition Authority, which is said to be sued on behalf of the Naivasha Municipal Council.

3. The Transition Authority entered appearance through the law firm of M/s Garane & Company Advocates. Through an application dated 18 July 2014, the said firm filed an application to have the Transition Authority struck out of this suit. The reason given is that they were improperly enjoined as defendants, since their mandate does not cover overseeing of private property.

4. When the application came up for inter partes hearing, counsel for the plaintiff conceded to the application and applied that in place thereof, the County Government of Nakuru be substituted for the Transition Authority.

5. There being a concession on the part of the plaintiff that the Transition Authority was improperly enjoined, and the plaintiff not being averse to the Transition Authority being struck out of the suit, I have no reason to disallow the application. I allow the same, and order the Transition Authority to be struck out of this suit. The plaintiff shall bear the costs thereof.

6. As to the proposed substitution, I direct that a formal application be filed.

It is so ordered.

Dated, signed and delivered in open court at Nakuru this 2nd day of July 2015.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU

In presence of : -

Mr Wekhomba holding brief for Mr. Hassan for 2nd defendant/applicant

Ms Njagua present for plaintiff respondent.

Janet : Court Assistant

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU