



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT KERICHO

JUDICIAL REVIEW APPLICATION NO.5 OF 2015

IN THE MATTER OF AN APPLICATION FOR LEAVE TO FILE A MOTION ON JUDICIAL
REVIEW AND ORDERS OF MANDAMUS

AND

IN THE MATTER OF THE CIVIL PROCEDURE ACT AND RULES IN THE MATTER OF THE
LAW REFORM ACT (CAP 26) SECTIONS 8 & 9 IN THE MATTER OF LAND REFERENCE NO.
KERICHO/KIPCHORIAN/LESIRWA BLOCK 1/92

BETWEEN

JULIUS CHELOGOI A. KORIR.....APPLICANT

VERSUS

THE DISTRICT LAND

REGISTRAR, KERICHO.....RESPONDENT

RULING

(Application for leave to commence judicial review proceedings for orders of mandamus; applicant claiming to be entitled to be registered as proprietor of certain land but that the Land Registrar has declined to register him; applicant wishes to have an order of mandamus to compel registrar to so register him; application for leave allowed)

The application before me was filed on 30th June, 2015 and is filed pursuant to the provisions of **Order 53 Rule 1 (1) and (2)** of the **Civil Procedure Rules**, and **Sections 8 and 9** of the **Law Reform Act** and all other enabling provisions of the law. It is an application seeking orders for leave to commence judicial review proceedings for orders of mandamus to compel the District Land Registrar, Kericho, to register the applicant as the absolute owner and issue a title deed to the land parcel Kericho/Kipchorian/Lesirwa Block 1/92. The applicant also wants the grant of leave to operate as a stay of any further transactions on the title till further orders of the court.

The case of the applicant is that he is the absolute owner of the subject parcel of land having bought it through share contribution in Kipsigei Farmers Co-operative Society wherein he was allocated plot No. 92 Lesirwa Farm. It is his position that he is entitled to be registered as the proprietor of the subject property but that the respondent has failed to effect the transfer in his favour.

I have considered the application. If it is the case that the applicant is entitled to the suit property, then it follows that he is entitled to be registered as proprietor and also entitled to be issued with a title deed. I therefore see no reason why I should not grant him leave.

I therefore do grant leave to the applicant to commence judicial review proceedings for orders of mandamus as intended. I further direct that the main motion be filed and served within 21 days or else this order of leave will lapse. On the prayer for stay, I have not seen any extract of the title and not being sure of what is in the register, I hesitate to issue any order of stay. The applicant is however free to ask for stay at a later point in time if he wishes to pursue it.

Costs of the application shall be costs in the main motion.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KERICHO THIS 30th DAY OF OCTOBER, 2015.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

In the presence of:

Mr. E.M.Orina for Applicant

Court assistant- Mr. Kenei