

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E&L 974 OF 2012

Formerly HCC 209 of 2012

JOSEPH KALENYAN CHEBOI.....PLAINTIFF

VS

WILLIAM SUTER RUTO.....DEFENDANT

(Application seeking orders for security to be present in a mediation by elders; elders comfortable to proceed with presence of administration or security; application dismissed;)

RULING

In this application dated 11/2/2014, the plaintiffs want an order that the Deputy County Commissioner Marakwet East sub-county do organize and supervise the re-establishment of the boundary of the land between Kalenyang and Kamitei families. They also want an order that the County Police Commissioner Marakwet East, Sub-county, to provide adequate security during the exercise.

The suit herein is a boundary dispute between the Kalenyang and Kamitei families, over un-registered and un-demarcated land. I was of the view that the matter can be resolved by the local elders, called the "Osis". On 25/11/2013, I therefore directed that the dispute be heard by the Osis and I asked them to file a report. A report was filed but the same was disputed by the defendants. I asked that the Osis appear in court and they duly did on 3/2/2014 together with the chief of the area. The Osis explained that they heard the dispute with the assistance of the Chief but the defendant raised the issue that the Chief was a relative of the Plaintiffs and could be biased. The Chief agreed to step aside and the Osis stated that they were prepared to re-hear the dispute without the involvement of the administration.

However through this application, it will be seen that the plaintiffs want some administration involved.

My view is that since the Osis stated that they were prepared and ready to hear the dispute without involvement of the local administration, I should give them a chance to proceed in that way. If at all they will find it necessary for some sort of administration to be present then we can cross that bridge when we get to it.

For now, let the Osis proceed as they deem fit. I will not therefore allow the application dated 11/2/2014.

I make no orders as to costs.

DATED AND DELIVERED AT ELDORET THIS 17TH DAY OF FEBRUARY 2014

JUSTICE MUNYAO SILA

ENVIRONMENT AND LAND COURT AT ELDORET

Delivered in open Court in the presence of;-

N/A for Mr. Komen for plaintiffs/applicants

Mr. A.K. Kitigin holding brief for Mr. Kipnyekwei for defendants/respondents