



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
ENVIRONMENT AND LAND DIVISION

ELC. NO. 991 OF 2012

KIPAPI OLE TAMAIYAN1ST APPLICANT
MAILUA GROUP RANCH.....2ND APPLICANT

VERSUS

GEORGE NDULA MERITEI1ST RESPONDENT
THE COMMISSIONER OF POLICE2ND RESPONDENT
THE DIRECTOR OF C.I.D.....3RD RESPONDENT
THE DIRECTOR OF PUBLIC PROSECUTION.....4TH RESPONDENT
THE REGISTRAR OF LANDS.....5TH RESPONDENT

RULING

Before this court are two applications for determination, one being the Chamber Summons dated 5th September 2012 (hereinafter referred to as the “First Application”) and the second being also a Chamber Summons dated 17th September 2012 (hereinafter referred to as the “Second Application”).

The prayers sought in the two applications are similar, in a nutshell requesting the court to issue conservatory orders restraining the Respondents from interfering with the Petitioners’ quiet enjoyment of the parcel of land identified as Kajiado/Mailua/3072 and 3073 originally known as Kajiado/Mailua/1276 (hereinafter referred to as the “suit property”) pending the hearing and determination of this Application and Petition.

Prayer No. 1 and 4 of the First Application were allowed by Justice Mabeya on 6th September 2012 leaving prayer nos. 2 and 3. The prayers contained in the Second Application were similar to those set out in the First Application.

Both the First and Second Applications were opposed. The 4th Respondent filed Grounds of Objection

dated 27th September 2012.

Upon perusal of the court file, I noted that Justice Majanja issued the following orders on 27th September 2012:

1. ***“The respondents, jointly and severally and any other person is restrained from subdividing, transferring or in any way dealing with the properties known as KAJIADO/ MAILUA/976 and KAJIADO/ MAILUA/1276 and all subdivisions thereto pending further orders of the court.***
2. ***The status quo currently obtaining on the suit property shall be maintained pending further orders of the Court.”***

To the best of my knowledge, those orders are still in force to date and no further orders have been issued. Looking at these orders as against the conservatory orders requested for by the Petitioners in the First and Second Applications, I am of the opinion that Justice Majanja’s said orders suffice to conserve the subject matter of this suit being the suit property pending the hearing and determination of this suit. Accordingly, I see no need to address the two applications any further as this would be wasting valuable time which could be utilized to hear and determine this suit in its entirety.

I therefore dismiss the First and Second Applications. Costs shall be in the cause. Parties should now busy themselves to file the necessary papers relating to the Petition to facilitate the hearing and determination of the same as a matter of priority.

SIGNED AND DELIVERED AT NAIROBI THIS 14th _____ DAY OF March 2014

MARY M. GITUMBI

JUDGE