



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E&L NO. 225 OF 2014

SHADOCK CHEPKIYENG CHERUTICH..... 1ST PLAINTIFF
MICHAEL KIPKORIR ARAP MAINA..... 2ND PLANTIFF
JOSEPH KIMUTAI KIGEN..... 3RD PLAINTIFF
SIMON ARAP BULLUT..... 4TH PLAINTIFF
WILLIAM KIPNGETICH KIGEN..... 5TH PLAINTIFF

VS

THE CHIEF EXECUTIVE OFFICER

MINISTRY OF LANDS, HOUSING AND PHYSICAL PLANNING

UASIN GISHU COUNTY GOVERNMENT..... 1ST DEFENDANT
COUNTY GOVERNMENT OF UASIN GISHU..... 2ND DEFENDANT
UASIN GISHU DISTRICT LAND REGISTRAR..... 3RD DEFENDANT

RULING

(Multiplicity of applications threatening to spiral out of control; court intervening to make final interlocutory orders).

This suit was commenced on 26th June 2014, initially by 6 plaintiffs. The original suit was in respect of 6 parcels of land namely Eldoret Municipality Block 10/1257, 1258, 1259, 1271, 1273 and 1300. The case of the plaintiffs is that they are entitled to the said parcels of land.

Together with the plaint, the plaintiffs filed an application for injunction to stop the defendants from interfering with the said properties. That application is dated 25th June 2014. Interim orders were granted on 27/6/2014. A second application dated 7th July 2014 was filed by the plaintiffs alleging that the 1st and 2nd defendants have contravened the interim orders of injunction.

A third application dated 11th July 2014 was filed by the 1st and 2nd defendants seeking to discharge interim orders of injunction.

A fourth application, dated 3rd September 2014 was filed through which the plaintiffs want orders to amend the plaint to include 12 other parties and also include 15 other properties to this suit which

properties are described as Eldoret Municipality Block 10/1255, 1263, 1266, 1267, 1270 and plots No. 26, 27, 28, 37, 44, 50, 52, 58, 59 and 60.

All the above applications are opposed. I foresee a situation where applications in this suit will spiral out of control. So that the main issues in this suit are determined without a lot of side shows, I have thought it fit to intervene and make the following orders which will be the orders of court in respect of the 4 applications on record.

1. I allow the application for amendment of plaint seeking to enjoin the 12 parties and seeking to include 15 other properties. I direct that the Amended plaint be filed and served forthwith.
2. To preserve the subject matters of the suit I make the following orders:-

(a) No party or their servants/agents should construct, develop, lease charge or encumber any of the 21 properties in issue being Eldoret Municipality Block 10/1257, 1258, 1259, 1271, 1273, 1300, 1263, 1255, 1266, 1267 and 1270 and plots No. 26, 27, 28, 37, 44, 50, 52, 58, 59 and 60.

(b) No party should utilize in any way or authorise any other person to utilize the said properties. I order that the properties remain vacant for the duration of this suit.

(c) All parties have a duty to ensure that the properties are maintained in the state described in order (b) above and have a duty to co-operate to ensure that other 3rd parties do not waste the land while this order is in force.

(d) I issue order of inhibition, inhibiting the registration of any disposition in the register of the land parcels Eldoret Municipality Block 10/1255, 1257, 1258, 1259, 1263, 1266, 1267, 1270, 1271, 1273, 1266, 1267, 1270, 1271, 1273 and 1300 and further issue an order stopping any processing of titles on the land comprising of the plots No. 26, 27, 28, 37, 44, 50, 52, 58, 59 and 60 Eldoret Municipality which are the subject matter of this suit, and if titles have been processed, I also issue an order of inhibition as herein before described.

(3) I direct the Agriculture Finance Corporation to be enjoined to these proceedings as interested party as they hold a charge over the land parcel Eldoret municipality Block 10/1266. I direct the plaintiffs' counsel to serve AFC with the Amended plaint and with this order within 7 days and AFC is at liberty to file any pleadings appropriate to this suit.

(4) If any party or person breaches the above orders, then such party or person will be dealt with in accordance with section 29 of the Environment and Land Court Act, which prescribes a fine of Kshs.20 million or 2 years imprisonment or both, and any party is at liberty to apply in case of disobedience.

It is so ordered.

DATED AND DELIVERED AT ELDORET THIS 7TH DAY OF OCTOBER 2014

JUSTICE MUNYAO SILA

ENVIRONMENT AND LAND COURT AT ELDORET

Delivered in the presence of:

Delivered in the presence of:

Mr. P.K. Kibii present for the plaintiffs.

Mr. Kipkoske Choge holding brief for Mr. Arap Mitei for 1st and 2nd defendants.

Mr. J.M. Ngumbi of the State Law Office present for 3rd defendant.