



Moses v Ochieng; Lengesia (Interested Party) (Environment & Land Case 49 of 2019) [2024] KEELC 1395 (KLR) (18 March 2024) (Ruling)

Neutral citation: [2024] KEELC 1395 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAROK
ENVIRONMENT & LAND CASE 49 OF 2019
CG MBOGO, J
MARCH 18, 2024**

BETWEEN

JUSTUS FRANK MOKAYA MOSES PLAINTIFF

AND

VINCENT SENETI OCHIENG DEFENDANT

AND

ALOIS JOSEPH LENGESIAH INTERESTED PARTY

RULING

1. When I retired to write the ruling in respect of the Notice of Motion Application dated 5th December, 2023 and filed by the interested party/applicant, and having perused the pleadings in this file, I realized that this is a matter that falls within the jurisdiction of the magistrate's court.
2. In the plaint dated 24th September, 2019, the plaintiff/ respondent sought the following prayers: -
 - a. An order of specific performance compelling the defendant to surrender the title deed of the property and also provide all the necessary completion documents for the purpose of transfer of title to the plaintiff.
 - b. Damages and an order of mesne profits from 23rd July, 2014.
 - c. Costs of this suit.
 - d. Any other relied this court deems fit to grant.
3. The plaintiff/ respondent's claim as against the defendant as contained in paragraph 11 of the plaint is for an order of specific performance compelling the defendant to transfer the said property into the plaintiff's name in exchange with the balance of Kshs 296,000/-.



4. I am aware that the suit is part heard, and the plaintiff/respondent closed his case on 31st October, 2023. In the circumstances and in order to save on judicial time, it is necessary that the matter is heard before the court seized of the proper jurisdiction. As such, this court declines to pronounce itself on the instant application.
5. Arising from the above, this file is hereby transferred to the magistrates' court for hearing and determination on a priority basis.

Orders accordingly.

DATED, SIGNED & DELIVERED VIA EMAIL THIS 18TH DAY OF MARCH, 2024.

HON. MBOGO C.G.

JUDGE

18/03/2024.

In the presence of: -

Mr. Meyoki Pere – C. A

