



Moso & 8 others v David & 2 others (Environment & Land Case E002 of 2024) [2024] KEELC 3465 (KLR) (29 April 2024) (Ruling)

Neutral citation: [2024] KEELC 3465 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT & LAND CASE E002 OF 2024**

EO OBAGA, J

APRIL 29, 2024

BETWEEN

**JOHN KIGEN MOSO 1ST PLAINTIFF
STEPHEN KIPTANUI KOTUT 2ND PLAINTIFF
JONATHAN KIPRONO KIBOSS 3RD PLAINTIFF
ANDREW KIMUTAI KORIR 4TH PLAINTIFF
ISAAC KIPROTICH KIPTOO & 4 OTHERS 5TH PLAINTIFF**

AND

ANTONIO DAVID DEFENDANT

AND

**JEREMY KIPTOO KIBOGY 1ST PROPOSED DEFENDANT
SAMSON SAIDUL KIBOGY 2ND PROPOSED DEFENDANT**

RULING

1. This is a ruling in respect of two applications. The first application is dated 17.1.2024 and it seeks the following orders:-
 1. Spent
 2. Spent
 3. Spent.
 4. That the defendant whether by himself, his agents, servants and or any other person be restrained from trespassing, entering, ploughing, leasing, cultivating, fencing, alienating,



remaining on or in any other manner interfering with plaintiffs' use and or utilization of land parcel known as L.R 1718/3/4/5 pending hearing and determination of the application interpartes.

5. That the O.C.S Kaptagat Police station to ensure and or supervise compliance of the orders.
2. The second application is dated 30.1.2024. it seeks the following orders:-
 1. Spent.
 2. That pending inter-parties hearing and thereafter hearing and determination of this application the Honourable court be pleased to stay and suspend the orders dated 17th January, 2024 and issued on 18th January, 2024.
 3. That the Honourable court be pleased to discharge, vary or set aside the orders of 17th January, 2024 and issued on 18th January, 2024.
 4. That this Honourable court be pleased to issue such orders of maintenance of status quo in respect of L.R No. 8433 and 1718/3/4/5 pending the hearing and determination of this application and suit.
 5. That Jeremy Kiptoo Kibogy & Samson Saidul Kibogy be enjoined as the 2nd and 3rd Defendants in these proceedings.
 6. Costs of this application be borne by the plaintiffs/Respondents.

The first application;

3. The Applicants in this application state that they are the registered owners of LR. Numbers 1718/3, 1718/4 and 1718/5. The Defendant/Respondent started felling trees on the suit properties. It is on this basis that they are seeking to stop him from interfering with the suit properties pending the hearing and determination of this suit.
4. The Respondent entered appearance on 8/2/2024 but did not file any response to the application. The application therefore remains unopposed. The same is allowed in terms of prayers 4 and 5.

The second application;

5. In this application, the Applicants contend that they are owners of LR. No. 8433. They state that the Plaintiffs/Respondents obtained orders in respect of LR. Numbers 1718/3, 1718/4 and 1718/5 and used the orders to try and evict them from LR. No 8433. The attempted eviction was being led by the OCS Kaptagat Police station.
6. The Applicants contend that the Respondents' properties are kilometres away from their property and there is no relationship between the Applicants' property and the Respondents' properties. There was no replying affidavit filed by the Respondents.
7. The applicants are seeking to stay the orders which were given on 17.1.2024 and issued on 18.1.2024. These orders are not touching on LR. No. 8433 which belongs to the Applicants. The orders were directed at the Defendant in this case. One cannot seek to stop orders which do not affect him. Neither can one seek to discharge orders which do not affect him.
8. The Respondents have no case against the Applicants. There is therefore no basis for them to be joined in these proceedings as defendants. The Respondents are not laying any claim to LR. No. 8433 which



belongs to the Applicants. I therefore find no merit in this application which is dismissed with no order as to costs.

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 29TH DAY OF APRIL, 2024.

E. O. OBAGA

JUDGE

In the virtual absence of parties who were aware of date of delivery of ruling.

Court Assistant –Laban

E. O. OBAGA

JUDGE

29TH APRIL, 2024

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