



Mbutu v Land Registrar – Nakuru (Environment & Land Miscellaneous Case 12 of 2024) [2024] KEELC 4286 (KLR) (23 May 2024) (Ruling)

Neutral citation: [2024] KEELC 4286 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND MISCELLANEOUS CASE 12 OF 2024**

A OMBWAYO, J

MAY 23, 2024

BETWEEN

PAUL MURAGE MBUTU APPLICANT

AND

LAND REGISTRAR – NAKURU RESPONDENT

RULING

1. The applicant prays for orders that this honorable Court be pleased to order for cancellation of the Kieseges Subukia West Block 2 (Wiumiririe) register currently held by the Lands office which has been tampered with and this honorable Court do order that the Land Registrar do adopt the Original Register held by Wiumiririe Farmers Co-Operative Society as the true copy of the Register. That this Honorable Court be pleased to grant any other relief this court may deem fit and just to grant.
Costs be in cause.
2. The application is based on grounds that the Applicant is a Director of Wiumiririe Farmers Co-operative Society Limited since the year 1996 to date. The said Co-operative Society is the holder of Wiumiririe Farm Register drawn in the year 1979 with a total of 778 members.
3. The said Co-operative Society is the owner of Kieseges/Subukia West Block 2 (Wiumiririe). The Register at the Land's Offices has been tampered with and several parcels of land have been interfered with i.e Double registration.
4. The Applicant is the registered owner of Kieseges/Subukia West Block 2/606 (Wiumiririe) which had been irregularly/illegally allocated to one Paul Macharia Mbugua and a Title Deed issued to him.
5. The Applicant filed Nakuru CMCC EL.C No. 172 of 2019 - Paul Murage Mbutu & Kibe Gakuna - Vs- Paul Macharia Mbugua & Land Registrar - Nakuru which case was ruled in his favour.



6. Unless this Honorable Court orders for cancellation of Kiesege Subukia West Block 2 (Wiumiririe) Register at the Lands office which has already been tampered with, the Applicant and all the Members of Wiumiririe Farmers Co-Operative Society will suffer irreparable loss and damage. It is in the best interest of justice that this instant Application be allowed. The Respondent will not suffer any prejudice if the applications is allowed. The supporting affidavit reiterates the grounds of the application.
7. The application is brought under section 9 of the [land registration Act](#) which provides that :-
- The Registrar shall maintain the register and any document required to be kept under this Act in a secure, accessible and reliable format including—
- (a) publications, or any matter written, expressed, or inscribed on any substance by means of letters, figures or marks, or by more than one of those means, that may be used for the purpose of recording that matter;
 - (b) electronic files; and
 - (c) an integrated land resource register.
- (2) The register shall contain the following particulars—
- (a) name, personal identification number, national identity card number, and address of the proprietor;
 - (b) in the case of a body corporate, name, postal and physical address, certified copy of certificate of incorporation, personal identification numbers and passport size photographs of persons authorized and where necessary attesting the affixing of the common seal;
 - (c) names and addresses of the previous proprietors;
 - (d) size, location, user and reference number of the parcel;
 - (da) passport number, telephone number and email address, where applicable; and
 - (e) any other particulars as the Registrar may, from time to time, determine.
8. Moreover, the same is said to be brought under section 19 of the [Environment and land court Act](#) which provides:-
- 1) In any proceedings to which this Act applies, the Court shall act expeditiously, without undue regard to technicalities of procedure.
 - (2) The Court shall be bound by the procedure laid down by the [Civil Procedure Act](#) (Cap. 21).
9. I do find that the cited provision of law do not allow the applicant to come to court by way of a miscellaneous application and therefore the application dated 11th March 2024 has no basis in law. The applicant is seeking substantive prayers and therefore should commence a suit in the manner prescribed by the Civil Procedure Rules 2010, and the [Civil Procedure Act](#) Cap 21 Laws of Kenya and not a miscellaneous application. Moreover, there is no evidence that the applicant is the director of Wiumiririe Farmers' Co-operative society. The application is dismissed with no orders as to costs.



**RULING DATED SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 23RD DAY OF
MAY 2024.**

A. O. OMBWAYO

JUDGE

