



REPUBLIC OF KENYA



Postal Corporation of Kenya v Board of Trustees Teleposta Pension Scheme (Environment and Land Case Civil Suit 96 of 2009) [2024] KEELC 5660 (KLR) (18 July 2024) (Ruling)

Neutral citation: [2024] KEELC 5660 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE CIVIL SUIT 96 OF 2009**

**LN MBUGUA, J
JULY 18, 2024**

BETWEEN

POSTAL CORPORATION OF KENYA PLAINTIFF

AND

THE BOARD OF TRUSTEES TELEPOSTA PENSION SCHEME DEFENDANT

RULING

1. On 2.10.2019 this court gave directions as follows;

“The dispute in this suit is a boundary dispute. Under section 18 of the [Land Registration Act](#), the court is barred from entertaining boundary disputes relating to registered land until the Land Registrar makes a determination relating to the dispute. Consequently, I direct that the boundary dispute herein be determined by the relevant Land Registrar within the framework of section 18 of the [Land Registration Act](#) and the registrar’s determination be filed in court within 90 days. The registrar’s costs, if any, shall be borne by the parties equally.”

2. Consequently, a report has been filed dated 15.7.2022 whereby defendant’s advocate prays that the said report be adopted by the court. Counsel for the plaintiff however contends that they desire to prosecute the claim and also avail an independent survey report.

3. I have perused the report dated 15.7.2022. I find that the same is not only technical, but it doesn’t resolve the dispute. Instead, an advise has been given for the resurvey of the subject properties No. L.R 209/13957/1, 209/16954. The report contends that there was an error in the cadastral survey as represented in the cadastral plan No. F/R No. 364/31.

4. That being the case, the court gives directions that the report shall be considered by the court in the final determination of the matter. However, the trial shall still proceed to the main hearing to enable



the parties to adduce any evidence that may challenge the report, any evidence that may enrich the report or any evidence that the parties may desire the court to consider.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 18TH DAY OF JULY, 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

M/s Mathenge for Defendant

Mr. Muthee for Plaintiff

Court assistant: Eddel

