



Oseur v Agricultural Finance Corporation & another (Environment & Land Case 528 of 2017) [2024] KEELC 6296 (KLR) (26 September 2024) (Ruling)

Neutral citation: [2024] KEELC 6296 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 528 OF 2017
LC KOMINGOI, J
SEPTEMBER 26, 2024**

BETWEEN

PAKIKIEN OLE NAIKUNI OSEUR PLAINTIFF

AND

AGRICULTURAL FINANCE CORPORATION 1ST DEFENDANT

NKOSERA KILELU SIRERE 2ND DEFENDANT

RULING

1. This is the Notice of Motion dated 12th March 2024 brought under; (Article 159 (2) (d) of the Constitution Sections 1, 1A & 3 of the Civil Procedure Act.)
2. It seeks Orders;
 - a. That the court be pleased to admit the Fingerprint Analysis Report for AFC Register dated 14th March 2019 contained in the Plaintiff's supplementary list of documents dated 5th December 2023 for examination and production in court.
 - b. That summons be issued to the Principal Criminal Registrar at DCI Headquarters, Nairobi to produce the Fingerprint Analysis for AFC Register dated 14th March 2019.
 - c. That the Court be pleased to issue summons to the Land Registrar Kajiado Central to be recalled for cross-examination by Plaintiff's counsel pursuant to the orders by Honourable Justice Maxwell Gicheru on 15th February 2022.
 - d. That cost be in the cause.
3. The grounds are on the face of the application and are set out in paragraphs 1 to 8.



4. The application is supported by the affidavit of Samson Musesya, Advocate for the Plaintiff, sworn on the 12th March 2024.
5. The said application is opposed by the Defendants.
6. On the 9th April 2024, the court with consent of the parties directed that the Notice of Motion be canvassed by way of written submissions.
7. I have considered the Notice of Motion, the affidavit in support and the responses thereto. I have also considered the rival submissions. The issue for determination is whether the Application is merited.
8. I have gone through the court record. I note that on 15th February 2022 there were directions given by Honourable Gicheru J, that the Land Registrar be cross-examined.
9. On the 6th June 2022, Honourable Gicheru J also gave directions that the security register by the 1st Defendant be subjected to forensic examination to determine if it was signed by the Plaintiff.
10. I believe this is the basis on which the Plaintiff filed the Supplementary List of Documents dated 5th December 2023. This was way after the Plaintiff had testified.
11. It can be noted from the court record that the plaintiff has not allowed this case to proceed expeditiously. He has filed several applications in the course of trial.
12. It is however in the interest of justice that he be allowed to produce all the documents he intends to rely on in the prosecution of his case.
13. I find that no prejudice will be occasioned to the Defendants if the Orders are granted as they will have an opportunity to cross-examine the said witnesses and even to avail further documents if need be.
14. The Plaintiff is hereby implored to ensure the said witnesses are availed at the shortest time possible.
15. I therefore allow the application with corresponding leave to the Defendants to avail further witnesses and/or documents if need be.
16. The costs of this application shall be borne by the Plaintiff.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 26TH DAY OF SEPTEMBER 2024.

L. KOMINGOI

JUDGE.

In the presence of:

Mr. Musesya for the Plaintiff.

Ms. Kinoti for the 1st Defendant.

Ms. Wahito for the 2nd Defendant.

Court Assistant – Mutisya.

