



Kagwanja v Juma; Inspector General of Police & another (Interested Parties) (Environment & Land Case E001 of 2023) [2024] KEELC 7028 (KLR) (24 October 2024) (Ruling)

Neutral citation: [2024] KEELC 7028 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E001 OF 2023
LC KOMINGOI, J
OCTOBER 24, 2024**

BETWEEN

PROF PETER KAGWANJA PLAINTIFF

AND

DR MONICA KATHINA JUMA DEFENDANT

AND

INSPECTOR GENERAL OF POLICE INTERESTED PARTY

HERBIVORA INDUSTRIES LIMITED INTERESTED PARTY

RULING

1. This is the Notice Motion dated 15th March 2024 brought under; (Article 40 of the [Constitution of Kenya](#), Section 3A & B of the [Civil Procedure Act](#), Section 152 (F) 2 (d) of the [Land Act](#), Order 40 Rule 1 of the [Civil Procedure Rules](#) 2010 and All enabling provisions of the Law)
2. It seeks orders;
 1. That pending hearing and determination of the main suit, this Honourable Court be pleased to direct that a Government Quantity Surveyor, in the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, within the State Department of Public Works, be appointed to draw a valuation report, to ascertain the value of;
 - a. the property known as Title Number Kajiado/Kisaju/2486;
 - b. all developments carried out by the Plaintiff/Applicant in the suit property known as Kajiado/Kisaju/2486 namely;
 - i. Drilling Three (3) boreholes to enhance constant water supply for human consumption and farming.



- ii. Water storage system with a capacity of over 40,000/= litres;
 - iii. Sewerage system;
 - iv. Purchase of Motor Vehicle registration number KBS 293R;
 - v. Milk Coolers of 5,000/ltrs and 10,000/ltrs capacity;
 - vi. Construction of an Animal Feeds Factory;
 - vii. Planting and maintaining a tree nursery to maturity of the trees;
 - viii. Construction of pig sties having the capacity to accommodate over 1,500 pigs;
 - ix. Built an underground silage storage with capacity to store silage for 3 years;
 - x. Poultry farm;
 - xi. Purchase of 60 high yield freshian cows;
 - xii. Purchase of 20 goats;
 - xiii. Purchase of 7 pecking ducks valued at Kshs.7,000/= each;
 - xiv. Hay store holding hay for consumption up to 5 months;
 - xv. Construction of a fish pond and engaging in Fish farming;
 - xvi. Modern irrigation system;
 - xvii. Construction of roads within the farm;
 - xviii. Construction of workers quarters;
 - xix. Recruited farm workers and a resident veterinarian.
2. That the Quantity Surveyor, the Plaintiff/Applicant and/or representative be granted access by the Defendant/Respondent to the suit property known as Kajiado/KIsaju/2486 for the valuation exercise.
 3. That the costs of this application be provided for.
3. The grounds are on the face of the application and are set out in paragraphs 1 to 25.
 4. The Application is supported by the Affidavit of Prof. Peter Kagwanja the Plaintiff herein, sworn on the 15th March 2024.
 5. The Application is opposed. There is a Replying Affidavit sworn by Dr. Monica Kathina Juma on the 27th March 2024.
 6. On the 20th March 2024, the court with the consent of the parties directed that the Notice of Motion be canvassed by written submissions.
 7. I have considered the Notice of Motion, the affidavit in support and the response thereto. I have also considered the rival submissions and the authorities cited. The issue for determination is whether the Application is merited.
 8. It is the Plaintiff/Applicant's case that he has invested heavily on the suit property and that he is entitled to compensation.



9. The Defendant/Respondent on the other hand states that the Plaintiff/Applicant does not have any beneficial interest on the suit property.

10. In paragraph 13 of the Plaint the Plaintiff has set out the particulars of the improvements he has made on the suit property over the years.

In prayer (d) of paragraph 34 he seeks that a valuation be undertaken for purposes of compensation.

11. In order to expedite this matter I will allow this application in the following terms:

a. That pending hearing and determination of the main suit, this Honourable Court be pleased to direct that a Government Quantity Surveyor, in the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, within the State Department of Public Works, be appointed to draw a valuation report, to ascertain the value of;

a. the property known as Title Number Kajiado/Kisaju/2486;

b. all developments carried out by the Plaintiff/Applicant in the suit property known as Kajiado/Kisaju/2486 namely;

i. Drilling Three (3) boreholes to enhance constant water supply for human consumption and farming.

ii. Water storage system with a capacity of over 40,000/= litres;

iii. Sewerage system;

iv. Purchase of Motor Vehicle registration number KBS 293R;

v. Milk Coolers of 5,000/ltrs and 10,000/ltrs capacity;

vi. Construction of an Animal Feeds Factory;

vii. Planting and maintaining a tree nursery to maturity of the trees;

viii. Construction of pig sties having the capacity to accommodate over 1,500 pigs;

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xiv. Hay store holding hay for consumption up to 5 months;

xv. Construction of a fish pond and engaging in Fish farming;

xvi. Modern irrigation system;

xvii. Construction of roads within the farm;

xviii. Construction of workers quarters;

xix. Recruited farm workers and a resident veterinarian



- b. That in (a) above, parties are at liberty to engage their own Quantity Surveyor to be present during the exercise.
- c. That the OCS Isinya Police Station do ensure peace and order is maintained during the exercise.
- d. That costs of this Application do abide the outcome of the main suit.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 24TH DAY OF OCTOBER 2024.

L.KOMINGOI

JUDGE.

In the presence of:-

Mr. A. Kamunde for the Plaintiff.

Ms. Mwanzia for the Defendant.

Court Assistant – Mutisya.

