



**Mugumo v Kingi & 2 others (Environment & Land Case 10 of 2021)
[2024] KEELC 13546 (KLR) (22 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 13546 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI
ENVIRONMENT & LAND CASE 10 OF 2021
AK BOR, J
NOVEMBER 22, 2024**

BETWEEN

JOSEPH KINYUA MUGUMO PLAINTIFF

AND

MARGARET MUTHONI KINGI 1ST DEFENDANT

LAND REGISTRAR, LAIKIPIA COUNTY 2ND DEFENDANT

THE HON. ATTORNEY GENERAL 3RD DEFENDANT

RULING

1. The Plaintiff filed the application dated 24/7/2024 seeking to have the County Land Surveyor provided security to ensure the peaceful re-establishment of the boundaries for the land known as Laikipia/Nanyuki West Timau Block 2/618 (Matanya Marura) (the suit property) by the OCS Matanya Police Station. The application was made on the ground that this court delivered its judgment in favour of the Plaintiff on 6/6/2022 who now holds the title over the suit property in trust for the beneficiaries of the estate of the late Mwangi Ngatia Kamuku. Further, that on several occasions the County Land Surveyor had tried to reestablish the boundaries for the suit property but the 1st Defendant was hostile and caused a breach of the peace hence the need to have security during that exercise. The Plaintiff swore the affidavit in support of the application and annexed a copy of the title deed issued to him on 19/8/2022.
2. The 1st Defendant swore the replying affidavit in opposition to the application and averred that Section 18 (2) of the *Land Registration Act* clearly provided that actions and matters related to undetermined boundaries were within the mandate of the Land Registrar making this application a nonstarter. She added that the application was *res judicata* and that the ruling dated 22/11/2023 seeking eviction orders was dismissed by the court. Moreover, that a similar prayer was made in the application dated 11/9/2023. She maintained that the court having established ownership of the suit property and the



Plaintiff having executed the judgment, he ought to seek action regarding boundaries from the office of the Land Registrar instead of moving the court. She accused the Plaintiff of litigating issues in instalments and subjecting her to financial hardship due to the payment of advocate fees. In any case, she had filed Nyeri Civil Appeal No. E085 of 2022 which was awaiting hearing before the Court of Appeal. She urged the court to dismiss the application.

3. The issue for determination is whether the court should grant the orders sought by the Plaintiff to have the surveyor granted security in the exercise to reestablish the boundaries of the suit property with a view to giving effect to the judgment of this court. He contended that in the past, the 1st Defendant was hostile and caused a breach of the peace when the surveyor attempted to go to the land. The 1st Defendant urged that a similar application had been done before and that she had lodged an appeal against the decision of this court.
4. Looking at the ruling delivered by this court on 22/11/2023, it is clear that the reason why the court declined to grant the orders which the Plaintiff had sought was because of the discrepancies in the description of the land. The description of the land in the present application is the same as what appears in the judgment delivered by this court on 6/6/2022 in favour of the Plaintiff. The application is therefore merited.
5. The court grants prayer (b) of the application dated 24/7/2024. Each party will bear its costs for the application.

DELIVERED VIRTUALLY AT NANYUKI THIS 22ND DAY OF NOVEMBER 2024.

K. BOR

JUDGE

In the presence of: -

Mr. T. Mbaaro holding brief for Mr. M. Mwangi for the 1st Respondent

Ms. Vanessa Muiruri – Court Assistant

No appearance for the Plaintiff and the 2nd and 3rd Defendants

