



Musei; Shokore (Interested Party) (Environment & Land Miscellaneous Case 44 of 2017) [2024] KEELC 13309 (KLR) (21 November 2024) (Ruling)

Neutral citation: [2024] KEELC 13309 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND MISCELLANEOUS CASE 44 OF 2017
MN GICHERU, J
NOVEMBER 21, 2024
(FORMERLY MACHAKOS ELC MISC. CIVIL CAUSE NO. 31 OF 2011)
IN THE MATTER OF AN APPLICATION FOR THE ORDER OF
CERTIORARI AND PROHIBITION BY WAY OF JUDICIAL REVIEW
AND
IN THE MATTER OF: LAND DISPUTES TRIBUNAL ACT NO. 8 OF 1990
AND
IN THE MATTER OF: CHAIRMAN LAND DISPUTE TRIBUNAL KAJIADO
AND
IN THE MATTER OF: THE SENIOR RESIDENT MAGISTRATE KAJIADO
AND
IN THE MATTER OF: THE DISTRICT SURVEYOR KAJIADO
IN THE MATTER OF
KIRISIET OLE MUSEI EXPARTE
AND
MARAU OLE MEYOKI SHOKORE INTERESTED PARTY

RULING

1. This ruling is on the notice of motion dated 21/2/2022. The motion which is under Order 40 rules 1 (a), 3 and 4 of the Civil Procedure Rules, Sections 1A, 1B, 3 and 3A of the [Civil Procedure Act](#) and all enabling provisions of the law seeks the following orders.



3. A permanent injunction to issue against the ex parte applicant, his servants, agents and anybody acting under him or direction from cutting, removing and or in any way interfering with the trees being on Plot No. Ngong/Ntashat/2733 being part of the disputed land until the ex -parte applicant's appeal is heard and determined.
4. That the costs of this application be borne by the ex-parte applicant in any event.
2. The motion is based on six (6) grounds and is supported by affidavit dated 21/2/2022 sworn by the interested party herein. The gist of the above material is as follows. Firstly, there is on record a judgment dated 29/9/2019 which is in favour of the interested party. Secondly, the ex-parte applicant filed a notice of appeal dated 14/10/2019. Thirdly, no appeal has been served to date. Fourthly, because of the above, the interested party cannot enjoy the fruits of his litigation. Fifthly, the ex parte applicant has gone to the land and started cutting down the trees thereon without the consent of the interested party. Finally, the action of the ex-parte applicant is intended to provoke the interested party into a fight and start a criminal case against him.
3. The motion is unopposed even though it was duly served upon the ex parte applicant.
4. I have carefully considered the motion in its entirety and I find no reason why the decree in Kajiado Land Disputes Tribunal Case No. 32 of 2010 should not be executed. There is absolutely no evidence that there is any appeal against the decision by this court dated 23/9/2019. Litigation must come to an end and decrees of the court must be executed so that successful litigants can enjoy the fruits of their judgment. The ex-parte applicant, even after he was given adequate opportunity has failed to demonstrate that there is any pending litigation.

For the above reasons, I allow the motion dated 21/2/2022 and order that the decree of the Lower Court be implemented in full. Costs to the interested party.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY 21ST DAY OF NOVEMBER 2024.

M.N. GICHERU

JUDGE

