



**Mecha v Sankeet & 2 others (Environment & Land Case E040 of 2024)
[2024] KEELC 13298 (KLR) (19 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 13298 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E040 OF 2024
MN GICHERU, J
NOVEMBER 19, 2024**

BETWEEN

ANNA BWARI MECHA PLAINTIFF

AND

LARRY SANKEET 1ST DEFENDANT

BRUCE LIKAMA 2ND DEFENDANT

COUNTY GOVERNMENT OF KAJIADO 3RD DEFENDANT

RULING

1. This ruling is on the notice of motion dated 14/4/2024. The motion which is brought under Rule 40 (1) (a) and 2(1) of the *Civil Procedure Act*, 24(a) and 25(1) of the *Land Registration Act*, Articles 40 and 159 (2) of *the Constitution* of Kenya and seeks the following residual orders.
3. An order of injunction be issued restraining the defendants whether by themselves, their agents, servants, employees, invites and/or otherwise whosoever from entering upon, trespassing, constructing a road or offering for sale, selling, disposing, charging, subdividing dealing, alienating, occupying, managing, letting or otherwise using as a road, remaining, interfering with the quiet possession and enjoyment of L.R. No. Kajiado/Kaputiei-North/85480 within Kajiado County, pending the hearing and determination of this case.
4. That costs of this application be provided for.
2. The motion is based on fourteen grounds and is supported by an affidavit sworn by the plaintiff dated 14/4/2024. The affidavit has ten (10) annexures. The gist of the grounds and the affidavit is as follows. Firstly, the plaintiff is the registered owner of the suit land which measures 0.04 hectares. She acquired the land through Uboru Housing Cooperative Society Limited which had bought L.R. No. Kajiado/Kaputiei-North/15239 which it subdivided amongst its members. Secondly, the plaintiff



built a perimeter wall worth Kshs. 300,000/= soon after acquiring the title deed for the suit land on 2/8/2017. Thirdly, in November 2023, the 1st defendant invaded the suit land and said that he wished to construct a road through it. He brought a lot of soil which he dumped on the suit land. Fourthly, when the plaintiff issued the 1st defendant with a demand letter, he said that he was ready for the legal challenge. Fifthly, the defendants have destroyed the perimeter wall on the suit land without a court order. Sixthly, the matter has been reported to the third defendant and the police at Kitengela Police Station who have not been able to resolve it. For the above and other reasons, the plaintiff prays for the orders as above.

3. The motion though served is unopposed because the respondents have not filed any replying affidavit or grounds of opposition.
4. I have carefully considered the motion in its entirety including the grounds, the supporting affidavit and the annexures. It seems to me that this is a boundary dispute between the plaintiff's land parcel No. Kajiado/Kaputiei-North/85480 and the 1st defendant's land. If that is the case, this court has no jurisdiction in cases of boundary disputes. Such jurisdiction vests in the Land Registrar by dint of Section 18(2) of the [Land Registration Act](#) which provides as follows.

“The court shall not entertain any action or other proceedings relating to a dispute as to registered land unless the boundaries have been determined in accordance with this section”.

5. The plaintiff has not adduced any evidence to demonstrate that the dispute has been referred to the Land Registrar. Even if the dispute had been determined by the Land Registrar, the only way that a boundary dispute could find its way to this court is by way of appeal. Regulation 40(6) of the Land Registration (General) Regulations, 2017 provides as follows.

Any party aggrieved by the decision of the Registrar made under paragraph (5) may within 30 days of the date of notification, appeal the decision to the court”.

For the above stated reasons, I direct that the plaintiff exhausts the procedure of boundary dispute resolution in Section 18 of the [Land Registration Act](#) and Regulation 40 (6) of the 2017 Regulations. The Motion dated 14/4/2024 has no merit and it is dismissed for the reasons already given.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY 19TH DAY OF NOVEMBER 2024.

M.N. GICHERU

JUDGE

