



**Omari v Land Registrar, Vihiga County & 2 others (Environment and Land Miscellaneous Application E009 of 2024) [2024] KEELC 13440 (KLR) (14 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 13440 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT VIHIGA  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E009 OF 2024  
E ASATI, J  
NOVEMBER 14, 2024**

**BETWEEN**

**FRANCIS MBALANYA OMARI ..... APPLICANT**

**AND**

**THE LAND REGISTRAR, VIHIGA COUNTY ..... 1<sup>ST</sup> RESPONDENT**

**BEATRICE AVIONA ..... 2<sup>ND</sup> RESPONDENT**

**CALEB OMARI MBALANYA ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. This ruling is in respect of the Notice of Motion application dated 27<sup>th</sup> May, 2024. It was filed by the applicant in person who seeks for orders that: -
  - a. The honorable court be pleased to issue an order directing and compelling the Land Registrar Vihiga to implement the gazette Notice No. 5067 dated 25<sup>th</sup> May 2018 which Notice was rectified vide the gazette Notice No. 6836 dated 13<sup>th</sup> July 2018 by the Land Registrar Vihiga.
  - b. The court be pleased to issue an order directing and compelling the Land Registrar Vihiga to issue the applicant herein with a title deed for the Land Parcel NO. Kakamega/Lugovo/340.
  - c. That the costs of the application be provided for.
2. The applicant's case is that the Land Registrar issued a gazette Notice No. 5067 dated 25/5/2018 which Notice was rectified vide gazette Notice No. 6836 dated 13<sup>th</sup> July 2018. That the gazette Notice issued was for the applicant to be issued with title deed for parcel of land NO. Kakamega/Lugovo/340. That the gazette Notice has not been implemented.
3. The application was opposed vide the Replying Affidavit of Caleb Omari Mbalanya which he swore on 25<sup>th</sup> September 2024 on his own behalf and on behalf of the 2<sup>nd</sup> Respondent. He stated that the Land



Dispute Tribunal's verdict was that the court includes the name of the applicant in Land Parcel NO. Kakamega/Lugovo/1775. That the verdict of the Tribunal was adopted as a Judgment of the court in VIHIGA SRM's MISC CIVIL APP NO. 19 of 2006 on 21/11/2006.

4. That the gazette Notice issued by the Land Registrar was in respect of parcel No. Kakamega/Lugovo/340 which had already been sub-divided and title closed. That the gazette Notice was not in respect of Kakamega/Lugovo/1775 which was the subject of the verdict of the Land Disputes Tribunal. That the gazette Notice purported that the Land Disputes Tribunal's verdict as adopted by the court ordered the sub-division of Land parcel number Kakamega/Lugovo/340 so that a portion thereof be transferred to the applicant yet that was not the verdict of the Land Disputes Tribunal. That the gazette notice was erroneous and grossly misleading. That neither the Land Disputes Tribunal nor the court decreed that the applicant be given land parcel NO, Kakamega/Lugovo/340. That the court cannot therefore compel the Land Registrar Vihiga County to issue the applicant title deed to land parcel NO. Kakamega/Lugovo/340.
5. I have considered the application, the contents of the Replying Affidavit and the oral submissions made.
6. The objective of the application is to execute a judgment of the court which adopted an award of the Land Disputes Tribunal as a judgement of the court.
7. The case of the Respondent is that firstly land parcel KAKMEGA/Lugovo/ No 340 does not exist and secondly that the Judgment sought to be executed did not award land parcel No. 340 to the applicant. That the gazette Notice is therefore misleading.
8. I have perused the record. The verdict of the Tribunal "dated 21/11/2006 which is sought to be implemented read;  
  
" This Tribunal is now requesting the court to include Francis Mbalanya Omari's name in the title of Land parcel NO. Kakamega/Lugovo/1775."
9. Yet the gazette notice sought to have the titles in respect of parcel NO. Kakamega/Lugovo/1774 and 1775 returned for cancellation so as to enable sub-division of land parcel No. 340 and giving a portion thereof to the applicant. The gazette notice does not reflect the correct terms of the tribunal's award and subsequent judgement of the court.
10. The Notice of Motion before court herein seeks for an order directing the Land Registrar to issue title deed to the applicant for Land Parcel NO. Kakamega/Lugovo/340. I find that the prayer is not supported by the history and facts of the case. Neither the Tribunal nor the Court awarded the applicant land parcel No. 340.
11. I find no basis for granting the prayers sought. The application is misconceived and unmerited. Application is hereby dismissed. Costs to the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents.

Orders accordingly.

**RULING, DATED AND SIGNED AT VIHIGA, READ VIRTUALLY THIS 14<sup>TH</sup> DAY OF NOVEMBER 2024 THROUGH MICROSOFT TEAMS ONLINE APPLICATION.**

**E. ASATI,**

**JUDGE.**

In the presence of:



Ajevi- Court Assistant.

Nyenyire for the Applicant.

2<sup>nd</sup> and 3<sup>rd</sup> Respondents present in person.

