



Kithi & others v Ramadhan & others (Enviromental and Land Originating Summons 72 of 2019) [2024] KEELC 13779 (KLR) (11 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13779 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIROMENTAL AND LAND ORIGINATING SUMMONS 72 OF 2019
FM NJOROGE, J
DECEMBER 11, 2024**

BETWEEN

RASHID KALU KITHI & OTHERS APPLICANT

AND

RAMADHAN IDDI RAMADHAN & OTHERS RESPONDENT

RULING

1. Vide an Originating summons dated 8/8/2019 filed in ELC OS 65 of 2019, the applicants therein approached this court, suing 5 respondents, seeking to be declared the proprietors of parcel no 39-Ganda by way of adverse possession. Withdrawal was made of the suit against the then 2nd respondent as he was deceased. Vide a notice of withdrawal dated 18/1/2021 numerous applicants withdrew their claims entirely against all the respondents. a motion for injunctive orders was filed on 18/2/2020. A preliminary objection dated 20/8/2020 was filed. An amended originating summons was filed on 2/6/2021. A motion for joinder of interested parties was filed on 2/11/2021. On 10/7/23 status quo orders were issued pending hearing and determination of the originating summons. A further amended Originating summons was filed on 3/8/2023. Meanwhile in a Mombasa Succession Cause No. 94 Of 2011, the grant that had been issued to the 1st and 2nd respondents was revoked on 10/6/2024 when the 1st and 2nd respondents admitted that they were not children of the former owner of the land or his lineage but descendants of the deceased's slaves. I note that this file (ELC 65/2019) has been informally acting as the lead file in a perceived consolidation of several related suits, but I can not locate the consolidation order in the pseudo-lead file or in the other files. Upon intimation that the files could be consolidated, the court only ordered that they be brought up for mention on 6/12/2021, but on that day the court only dealt with a joinder motion filed under certificate of urgency. The issue of whether the case can proceed while the grant has been revoked and no substantive final determination on appeal regarding the rightful grant holders (the court has been made to understand in OS No 6/24 that an appeal has been lodged against the revocation and the revocation has been stayed) is also a thorny issue, for who would then defend the case?



2. In view of the foregoing this court directs that status quo orders in all the related suits be observed as earlier ordered by this court until the proper administrators of the deceased have been appointed and thereafter the hearings can take off in all the related matters. These directions shall apply to all the related files in which parcel no 39 is the subject matter as follows: ELC OS No 6 of 2023, ELC No 251 of 2017, ELC Land Case No 65 of 2019 O.S, ELC OS no 15 of 2022, ELC OS 6 of 2021, and ELC OS 7 of 2021. These files shall be listed for mention on 20/3/2025 to ascertain the position with regard to the succession issue.

RULING DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 11TH DAY OF DECEMBER, 2024.

MWANGI NJOROGE

JUDGE, ELC, MALINDI

