

EAST AFRICAN COURT OF JUSTICE

COMINGUP CASES

Application No. 31 of 2022 (*Arising from Reference No. 36 of 2022*) *Christopher Serafino Wani Swaka*

Versus

The Attorney General of the Republic of South Sudan.

Coming up for hearing: Hearing on Wednesday the 8th day of November, 2023.

Application filed on the: 4th October, 2022

Articles: 2, 5(3), (c), 6(d) & 7(2), 8(1)(c), 4(4), 9, 13, 23, 27(1), 30, 33, 38, 39, 44 of the Treaty for the Establishment of The East African Community and all other enabling provision of the law

Rule: Rules 4, 25(1), (2) and (3), and 27(1), 52(1), (2), (3), (4), 53(1), 84(1)(2), 132 and 133 of the East African Court of Justice Rules of procedure, 2019) And The Vienna Convention on the Law of Treaties, 1969.

Subject matter: an interim order and/or a temporary injunction.

The Applicant's land was illegally encroached on by the Ministry of Roads and Bridges and its contractor or ARC without any agreement. The applicant contends that the registered owners have been in possession of the said parcel and have been in legal entitlement to enjoy the benefits of ownership and that the intentional trespass/land grabbing on the land and its continuous appropriation for the road construction continues with impunity and no courtesy as there has been no permission or compensation sought.

The Applicant also contends that because of this action, the land owner is unable to continue with his usual farming activities as cows and goats are now grazing on the remaining part of land and that the constructed road passed via farm land resulting to destruction of crops and trees thereby affecting livelihood and food security.

In reply, the Respondent states that the Ministry of roads assumed ownership of the said land in question for public interest as a developmental project of which the Ministry of Roads and Bridges is constitutionally mandated to undertake. The Respondent further states that the Applicant was compensated and the money was handed over to the State Authorities, that is

Central Equatoria State. The Respondent also argues that payments were done with the help of the State experts in assets valuation and due process of the law was followed.

The Applicant prays for Orders that;

- (a) Pending determination of reference filed in this Court, an interim order be issued against the Respondent by themselves, employees and /or agents restraining the conducting of new elections.
- (b) That the Respondent should cease /stop tarmacking 2kilometers of juba-Bor road from where the Land is located,
- (c) The Applicants as well pray that they be granted such other orders and directions as may be appropriate in the circumstances and costs of the application be provided.
- (d) The status quo should be maintained pending the outcome of the Reference it just and equitable that application for **temporary injunction (interim order) be granted pending the outcome of the main reference inter-parte.**

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