



REPUBLIC OF KENYA



KENYA LAW
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**Kimeto v Rono & 14 others (Civil Suit 78 of 2007)
[2022] KEHC 9976 (KLR) (23 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 9976 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CIVIL SUIT 78 OF 2007**

**JN MULWA, J
JUNE 23, 2022**

BETWEEN

ANTHONY KIPKOSKEY KIMETO PLAINTIFF

AND

DICKSON A RONO & 14 OTHERS DEFENDANT

RULING

1. Judgment in the suit was delivered on the May 16, 2019. At paragraph 28 of the judgment, the court stated:

“...for the above reasons and with a view to bringing the boundary dispute between the parties who are neighbours to a close, I come to the finding that it is for the interest of justice and peaceful co-existence as neighbours that the boundary between the plaintiff’s and the defendants land parcels be fixed and settled by the Narok County Land Registrar who under section 19 of the said Act, and section 18(2) therefore is empowered to settle the boundary disputes within its jurisdiction.”
2. At paragraph 30 of the judgment, the Narok County Land Registrar was directed to arrange and ascertain, fix and settle the boundaries between the two land parcels, and to ascertain on the ground if any of the defendants have encroached or erected any structures or are in occupation of the plaintiff’s land parcel No Narok/C15 Mara/ Ilmotiok/468.
3. The Narok County Land Registrar was further directed to file a report on his findings. The court further went ahead to direct that a final judgment and orders would be given upon consideration of the would be filed report.



4. On the June 30, 2019, the Narok District Land Registrar filed its report stating that parcel No C15-Mara/Ilmotiok/2444 had been subdivided, that resulted to two parcels. It is clear that the Plaintiff's land parcel No 468 and not affected by the subdivisions.
5. The above invoked the plaintiff to file the application dated October 18, 2019. This application was heard and determined in a ruling dated October 8, 2020.
6. A close scrutiny of the court's ruling of October 8, 2020 at paragraph 24 in my very considered opinion gave effect to the judgment in terms of directives stated under paragraphs 28, 29 and 30 in the court's judgment.
7. In coming to the above decision, the court considered the parties written submissions and the relevant land laws and provision stated in the [Land Registration Act](#), 2012 as well as decisions on the subject stated at the body of the judgment.
8. Having stated as above, I hold that the ruling dated October 8, 2020 cannot be revisited or reviewed in any manner unless the court is properly moved. It is the final findings in respect to the directives of the court, in the stated paragraphs.
9. In my opinion, the court's judgment has no ambiguity whatsoever, and is self-executing. It needs no interpretation at all. I am further guided by the principle "*functus officio*" to the effect that a court cannot revisit its judgment on the merits or purport, over the same, save as provided by the law, see section 99 of the [Civil Procedure Act](#), for correction of errors that do not go to the merits of a judgment or ruling
10. The purpose and court's intention when it issued directives at paragraph 28, 29 and 30 of the judgment was to bring clarity to the judgment; but was never meant to bring a situation that the court would be called upon to review its judgment taking into account the would be filed report. The said paragraphs were clear as to the courts intention. See also paragraph 26 thereof.
11. There being no application for setting aside or review of the judgment of the court, under order 45 of the [Civil Procedure Rules](#), the judgment remains as the final judgment. To state otherwise would be offending the principles of "*functus officio*".

The doctrine of "*functus officio*" as defined in the case of [Telcom Kenya Limited v John Ochanda](#) [2014] eKLR states that:

"*functus officio* is an enduring principle of law that prevents the reopening of a matter before a court that rendered the final decision therein... the doctrine is not to be understood to bar any engagement by a court with the case that it has already decided or pronounced itself on. What it does bar, is a merit-based decisional re-engagement with the case once final judgment has been entered and decree thereon issued".

12. [Black's Law Dictionary](#), 6th edition at page 950, defines a judgment as a court's final determination of the parties rights and obligations of the parties in a case and includes an equitable decree and any other order from which an appeal lies.

The judgment of the court dated May 16, 2019 does not require the court to do anything else, save as may be moved by any party thereof.

13. The directives to the Narok County Land Registrar were meant to give clarity to the judgment as far as the rights of the parties on the land parcels. The report, whichever way it went would not entitle the court to make further orders to enrich the judgment but as I have stated, to give clarity to the same.



In the circumstances, and having rendered itself in the ruling dated October 8, 2020, I decline to move one more step. The judgment is clear and no ambiguity in my view is exhibited to call for interpretation. I therefore find that the application dated October 18, 2019 is spent and I need say no more.

The judgment of this court dated May 16, 2019 therefore remains as the final judgment of the court.

DELIVERED DATED AND SIGNED THIS 23RD DAY OF JUNE 2022.

J MULWA

JUDGE.

