



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**CIVIL SUIT NO. 28 OF 2015 (OS)**

**IN THE MATTER OF MATRIMONIAL PROPERTY ACT, 2013**

**MW.....APPELLANT**

**-VERSUS-**

**JK.....RESPONDENT**

**RULING**

1. The applicant and the respondent were married. The marriage was dissolved by Githunguri Principal Magistrate on 23<sup>rd</sup> April 2015 vide **Divorce Cause No. x of 2013**. The applicant filed the instant suit seeking the division of matrimonial properties:- LR No. Githunguri/Gathanga/xxxx, Githunguri/Nyaga/xxx and motor vehicle registration number KAC xxxY. The matter was referred to court annexed mediation. Parties entered into a mediation settlement agreement dated 7<sup>th</sup> February 2018 whose terms were that:-

- a) L.R. Githunguri/Githanga/xxxx together with all developments be registered in the name of the applicant to hold in trust for herself, EW, BN and BM (minor);
- b) the respondent do retain L.R. Githunguri/Nyaga/xxx together with the developments thereon;
- c) the respondent do retain motor vehicle registration number KAC xxxY which was his source of livelihood; and
- d) each party to bear own costs.

2. The mediation settlement agreement was adopted as an order of the court on 12<sup>th</sup> March 2018.

3. The applicant in her application dated 31<sup>st</sup> October 2018 sought that the court cancels the respondent's title to Githunguri/Gathanga/xxxx and orders the issuance of a fresh title in her name to hold in trust for herself, EW, BN and BM (minor); and that the Deputy Registrar be empowered to sign all papers to effect the orders. Her case was that since the orders were made she has severally written to the respondent through his advocates to surrender his title to the property and to execute the transfer to no avail.

4. The respondent was served but made no response.

5. I allow the application. I direct the Lands Registrar Kiambu to cancel the title of the respondent to LR Githunguri/Gathanga/xxxx. He shall then cause the registration of the parcel into the name of the applicant who shall hold it in trust for herself and for EW, BN and BM (minor). The Deputy Registrar of this court shall sign all the necessary papers to effect these orders. The respondent shall bear the costs of the application.

**DATED and DELIVERED at NAIROBI this 29<sup>TH</sup> day of NOVEMBER 2021.**

**A.O. MUCHELULE**

**JUDGE**