



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

CIVIL APPEAL NO. 6 OF 2005

RABAN KIRONGO.....APPELLANT

VERSUS

MWONGERA M' ARITHO.....RESPONDENT

R U L I N G

1. This application is dated 13/05/2016 and seeks the following orders:-

1. *That this Honourable Court do hear this application very urgently.*
2. *That this Honourable Court be pleased to order that the respondent MWONGERA M'ARITHO do immediately transfer LR. NYAKI/THUURA/1725 to KAWI MUBICHI who is now an adult and in default the Executive Officer of this Court do sign the necessary forms to effect transfer.*

The application was supported by the affidavit of RABAN KIRONGO, the Appellant and has the following grounds:-

1. *That the said LAWI MUBICHI has now attained majority age.*
2. *That the respondent is not willing to transfer the land to the said LAWI MUBICHI despite him having attained majority age.*
3. *That the said LAWI MUBICHI is now seriously sick and admitted at KIIRUA HOSPITAL.*

2. It is supported by the affidavit of Raban Kirongo, the Appellant sworn on 13th May, 2016 which states as follows:-

1. *THAT I am the Appellant/Applicant herein and hence competent to make this oath.*
2. *THAT I had filed this appeal against the ruling of Mr. OMBURA in CM LDT No. 10/2001 dated 31st January, 2005.*
3. *THAT before the appeal was heard, I entered into a consent with the Respondent vide letter dated 23/3/2009 where it was agreed by consent as hereunder:-*
 - i. *That the Appellant do transfer to the Respondent MWONGERA M' ARITHO LR. NYAKI/THUURA/1725 to hold in trust for LAWI MUBICHI.*

- ii. *All cautions, inhibition registered against L.R. NYAKI/THUURA/3689,3690,3691, 3692, 3693,3694 3695.*
- iii. *The appellant shall pay the costs of the appeal.*
4. *THAT the Consent order was duly executed and I also paid costs of the appeal to the Respondent.*
5. *THAT LAWI MUBICHI is now an adult of over 18 years at the University hence should be registered as owner of L.R NYAKI/THUURA/1725.*
6. *THAT it is not necessary for the Respondent to continue holding L.R. NYAKI/THUURA/1725 in trust for LAWI MUBICHI when he has attained the age of majority unless he has other adverse plans/interest.*
7. *THAT it is the interest of justice that the land be now solely owned by the said LAWI MUBICHI.*
8. *THAT what is stated is true to the best of my knowledge, information and belief .*

3. On 25/5/2016, Mr. Anampiu, Advocate for the Applicant told the Court that he wished to withdraw the matter because the intended Beneficiary died on 18/05/2016. Mr. Mwenda was not opposed to the application but sought costs as he felt that the application was brought to Court in extremely bad faith.

4. The parties agreed that the matter should be marked as settled. I mark it settled. In view of this development I award no costs.

5. For avoidance of doubt, **the suit is marked settled and issues therein may not be relitigated.**

6. **It is so ordered.**

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 25TH DAY OF MAY, 2016 IN THE PRESENCE OF:-

CC: Daniel/Lilian

Ayub Anampiu for the Appellant

Murango Mwenda for the Respondent.

P.M. NJOROGE

JUDGE