



**Gachuru v Nguku (Environment & Land Case 164 of 2017)  
[2025] KEELC 3450 (KLR) (28 April 2025) (Ruling)**

Neutral citation: [2025] KEELC 3450 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MURANGA  
ENVIRONMENT & LAND CASE 164 OF 2017**

**MN GICHERU, J**

**APRIL 28, 2025**

**BETWEEN**

**PAUL MWANGI GACHURU ..... PLAINTIFF**

**AND**

**KAMANDE NGUKU ..... DEFENDANT**

**RULING**

1. This ruling is on the notice of motion dated 14-3-2025. The motion which is by the Plaintiff is brought under order 22 rule 29 of the Civil Procedure Rules, sections 1A, 1B, 3A, 34 and 98 of the Civil Procedure Act and all enabling provisions of the law. It seeks three (3) orders.
  - a. The Deputy Registrar of this Court be authorized to execute the relevant documents to effect the transfer of one(1) acre of LR No. Loc.17/Kamahuha/2980 to the Plaintiff.
  - b. That the Land Registrar, Murang'a County be ordered to dispense with the production of the original title deed to LR No. Loc. 17/Kamahuha/2908.
  - c. That the costs of this application be in the cause.
2. The motion is based on nine(9) grounds and is supported by an affidavit sworn by the Plaintiff dated 14-3-2025 and which has four(4) annexures. The gist of the above material is as follows. Firstly, there is a judgment on record dated 16-11-2017 which declared the Plaintiff as entitled, through adverse possession to one acre of the suit land. Secondly, before filing this suit, the Plaintiff had lodged a caution over the suit land so as to protect his interest. Thirdly, after being served with the decree herein, the Defendant, in a bid to defeat this judgment filed a miscellaneous application in Thika Law Courts being miscellaneous application No. 27 of 2018 whereupon he obtained an order for the removal of the caution. Fourthly, the said order was obtained exparte as the Plaintiff herein was not served. Fifthly, the suit land was subdivided into parcel numbers Loc.17/Kamahuha/2906, 2907 and 2908 and title deeds issued on 11-4-2018. Sixthly, the Defendant disposed of LR No. 2907 to a third party and these



actions are fraudulent and meant to defeat the course of justice. Finally LR No. 2908 measures 1.2 acres and it is still registered in the name of the Defendant and it is the one which he occupies. For the above and other reasons, the Plaintiff prays or the orders.

3. The motion though served on 26-3-2025 is unopposed. No replying affidavit or grounds of opposition were ever filed by the Defendants.
4. I have carefully considered the motion in its entirety and I find that it has merit not just because it is unopposed but because it is based on the judgment and decree of this court. Secondly, there is the particular portion of the LR No. Loc17/Kamahuha/2634 which the Plaintiff was found to be entitled to through adverse possession.

One of the reasons why the Plaintiff was found to be entitled to the land is continuous occupation of the same. That is the portion which will be registered in his name irrespective of whether it has been sold to third parties or not. The Plaintiff's occupation of that one acre overrides any title issued before or after his occupation. For the above stated reasons, I allow the notice of motion dated 14-3-2025 in terms of prayers 1,2 and 3.

It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 28<sup>TH</sup> DAY OF APRIL, 2025.**

**M.N. GICHERU**

**JUDGE**

Delivered online in the presence of; -

Court Assistant – Mwangi Njonjo

Plaintiff's Counsel – Miss Njoka

