



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

HCA 227 OF 2013

JADIEL KIRONGO M'ITHIANO.....APPELLANT/RESPONDENT

VERSUS

JULIUS GATOBU M'ITHIANORESPONDENT/APPLICANT

RULING

1. This application seeks to have a Judgment of this Court delivered on 17th November, 2014 implemented. The application is dated 9th June, 2016.

2. The application seeks the following orders:-

(1) THAT this application be certified urgent and the same be heard ex-parte in the 1st instance.

(2) THAT this Honourable Court be pleased to remove any encumbrances, cautions, injunctions, inhibitions and /or restrictions placed on land parcel Nos. Nyaki Mulathankari No. 54 and Nyaki Thuura No. 1658.

(3) THAT the respondent be ordered to sign the relevant documents to effect transfer of LAND PARCEL NOS. Nyaki Mulathankari No. 54 and Nyaki Thuura No. 1658 to be shared between Jadiel Kirongo M'Ithiano and Julius Gatobu M' Ithiano as per the judgment of the court dated 17th day of November, 2014.

(4) THAT in the alternative the Executive Officer of this Court be empowered by the Court to sign the relevant documents should the Respondent prove difficult or refuse. THAT the cost of this application be provided for.

It is supported by the affidavit of JULIUS GATOBU M'ITHIANO, the applicant, and has the following grounds:-

a) THAT the respondent has disregarded the order of this court and has ignored and/or refused to execute transfer documents to effect the judgment of this Honourable Court dated 17th day of November, 2014.

b) THAT this Court ordered that LAND PARCEL Nos. Nyaki Mulathankari No. 54 and Nyaki Thuura No. 1658 to be shared between Jadiel Kirongo M'Ithiano and Julius M'Ithiano.

c) THAT the Executive Officer of this Court should be empowered by the Court to sign the relevant documents because the Respondent has proved difficult and has refused to co-operate.

d) THAT it is necessary to implement the Court's decision without any further delay.

e) THAT no prejudice shall be suffered by any of the beneficiaries of the estate of the deceased.

3. I find that the application is meritorious. I grant prayers 2 and 4. As a consequence the following orders are issued:-

(1) The apposite land Registrar is ordered to forthwith remove any encumbrances, cautions, Injunctions, inhibitions and/or restrictions, if any exist, placed on Land parcel No. Nyaki Mulathankari No. 54 and Nyaki Thuura No. 1658.

(2) The Executive Officer of this Court is empowered and empowered by the Court to execute all the relevant documents necessary for the implementation of Order 1 above.

(3) The applicant, Julius Gatobu M' Ithiano, to meet all the costs incidental to the implementation of the prayers granted by the Court.

(4) Cost of this application awarded to the applicant.

(5) It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 20TH DAY OF JULY, 2016 IN THE PRESENCE OF:-

CC: Daniel/ Lilian

Julius Gatobu -Applicant

P.M NJOROGE

JUDGE