



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA

Elc Case No. 278 Of 2013

JASON GITIMU WANG'ARA PLAINTIFF/APPLICANT

VERSUS

MARTIN MUNENE WANG'ARA1ST DEFENDANT/RESPONDENT

JOHN MUTUGI 2ND DEFENDANT/RESPONDENT

SIMON MUCHIRI3RD DEFENDANT/RESPONDENT

FRANCIS GITHAKA 4TH DEFENDANT/RESPONDENT

JOHN KARATU5TH DEFENDANT/RESPONDENT

JOSEPH MUCHIRI6TH DEFENDANT/RESPONDENT

JOSEPH MURIITHI WANG'ARA7TH DEFENDANT/RESPONDENT

LAZARIUS GITHAKA8TH DEFENDANT/RESPONDENT

CHARLES WARUI9TH DEFENDANT/RESPONDENT

SIMON NDEGE10TH DEFENDANT/RESPONDENT

FRANCIS MUTURI11TH DEFENDANT/RESPONDENT

FRANCIS GACHOKO.....12TH DEFENDANT/RESPONDENT

PETER AGIRI13TH DEFENDANT/RESPONDENT

ONESMUS MATHIKE14TH DEFENDANT/RESPONDENT

JUDGMENT

By a judgment delivered in this Court on 26th August 2013, it was ordered that the plaintiff/respondent, as trustee of property known as L.R No. MWEA/TEBERE/B/61 should ensure that the said property is shared equally between the family members and that he shall execute the relevant transfer documents and in default, the Deputy Registrar of this Court shall do so. From the record, there is nothing to suggest that

that judgment has been stayed or vacated.

The defendants/applicants have now moved this Court under **Section 3A of the Civil Procedure Act** seeking the following orders:-

1. ***Spent***
2. ***That the Land Registrar Kirinyaga do dispense with the production of the original Title Deed in respect of land parcel No. MWEA/TEBERE/B/61 during the registration of the transaction for the parties herein to obtain its share pursuant to Court orders given on 26th August 2013 by this Honourable Court***
3. ***That the Officer Commanding Wanguru Police Station do provide security during the partitioning/sub-division exercise***
4. ***That costs of this application be provided for.***

The application is dated 13th January 2014 and was filed herein on 14th February 2014 and is based on the grounds, inter alia, that the plaintiff/respondent has adamantly refused to produce the original Title Deed in respect of parcel of land No. MWEA/TEBERE/B/61 to enable execution of the order of this Court dated 26th August 2013.

The application is not opposed.

I have considered the application, un-opposed as it is. It is clear that unless the original Title Deed to the parcel of land No. MWEA/TEBERE/B/61 is produced, this Court's judgment dated 26th August 2013 cannot be executed. It is also clear that the plaintiff/respondent who is in possession of the said original Title has refused to produce it to enable the Land Registrar Kirinyaga execute the orders of this Court.

I accordingly grant prayers 2 and 3 of the plaintiff/applicant's Notice of Motion dated 13th January 2013 and filed herein on 14th February 2014.

There will be no order as to costs.

B.N. OLAO

JUDGE

20TH MARCH, 2015

20/3/2015

Before

B.N. Olao – Judge

CC – Gichia

Mr. Omenya for Nduku for Plaintiff – present

Mr. Miano for Thungu for 1st, 2nd & 3rd, 4th, 5th, 7th, 9th, 13th & 14th Defendants – present

COURT: Judgment delivered this 20th day of March 2015

Mr. Omenya for Nduku for Plaintiff present

Mr. Miano for Thungu for 1st, 2nd, 3rd, 4th, 5th, 7th, 9th, 13th and 14th Defendants present

B.N. OLAO

JUDGE

20TH MARCH, 2015