

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

HIGH COURT CIVIL NO. 53 OF 2006

N W W.....APPLICANT

VERSUS

N W W.....RESPONDENT

RULING

1. The application dated 19th October, 2014 seeks review of the consent orders recorded on 25th March 2009. LR No. *[particulars withheld]* was to be subdivided into subplots measuring 50 x 100 feet out of which two (2) plots would be registered in the applicant name and the balance to four named persons. The applicant argues that the survey of the land has revealed that land could be subdivided into eight (8) plots instead of six (6).
2. The respondent, in his reply in the affidavit sworn on 13th November 2012, does not advance any reason why the review sought by the applicant cannot be allowed.
3. I have noted from the court order that the applicant was entitled to portions of *[particulars withheld]* while the respondent was to exclusively get *[particulars withheld]*. The proposed changes therefore will not affect him in any way.
4. Review under Order 45 of the Civil Procedure Rules is obtainable on grounds of errors on the face of the record, discovery of new matter and any other sufficient reason. It is pleaded that review in this case is sought on discovery of new matter – that *[particulars withheld]* could be divided into eight (8) plots instead of six (6).
5. I have been referred to the decision of Nyarangi JA in *Wangechi Kimita & another –vs- Mutahi Wakibiru Nyeri CACA No. 80 of 1985*, where His Lordship ruled that discovery of new matter or evidence could be basis for review of consent orders.
6. I am convinced that the applicant has made a case for review of the consent orders recorded on 25th May 2009. I will allow the application dated 19th October 2012 in the terms proposed therein. Costs shall be in the cause.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF January, 2014.

W. MUSYOKA

JUDGE

