



IN THE HIGH COURT OF KENYA AT MERU

CIVIL CASE NO. 103 OF 2010

THAMBU MUKUNGA.....PLAINTIFF/APPLICANT

VERSUS

THARAKA NITHI COUNTY GOVERNMENT.....DEFENDANT

J U D G M E N T

The plaintiff in his plaint dated 7th August, 2010 prays for judgment against the defendant for:

- 1. A declaration that the plaintiff is the owner of L. R. No. MWIMBI/CHOGORIA/501 to hold in trust for himself and his nuclear family.***
- 2. An order for rectification of the lands register and cancellation of the defendant as the registered owner of L. R. NO.MWIMBI/CHOGORIA/501 and substitution thereof, with the plaintiff as the registered owner, to hold in trust for himself and his nuclear family.***
- 3. Costs of the suit and interest thereon at Court's rates.***

On 24.7.2014 Mr. Carlpeters Mbaabu the plaintiff's advocate moved the court, via the plaintiff's application by way of Notice of Motion to grant the following orders:

- 1. That the application be certified extremely urgent and it be heard on priority basis.***
- 2. That the written consent dated 30.6.2014 and filed in court on 01.07.2014, executed by the parties' respective counsel herein, be adopted as an order of this honourable court.***
- 3. That this case and Meru H.C. Petition No. 17B of 2012 which concerns the same parties and subject matter, be deemed as settled in terms of the said consent dated 30.6.2014.***
- 4. That cost of the application be in the cause.***

Mr. Murithi holding brief for advocate Njeru for the defendant agreed with the elaboration proffered by the plaintiff's advocate.

The apposite consent dated 30.6.2014 is in the following terms:-

“By consent of the parties through their respective counsel:-

- 1. THAT the plaintiff herein be and is hereby declared the owner of L. R. No. MWIMBI/CHOGORIA/501, to hold the same in trust for himself and his nuclear family.***

2. ***THAT*** the lands register be rectified to reflect **THAMBU MUKINGA** as the registered owner of L.R. No. MWIMBI/CHOGORIA/2152.
3. ***THAT*** both parties herein do execute all the necessary transfer documents which will facilitate and give effect to item No. 2 above.
4. ***THAT*** prayer (a) in the amended petition dated 23.07.2013, in Meru H.C. Petition No. 17B of 2012, which concerns the same L. R. No. MWIMBI/CHOGORIA/501, be and is hereby allowed
5. ***THAT*** the defendant herein to bear the plaintiff's costs herein in, the petitioner's costs in Meru H. C. Petition No. 17B of 2012 and all expenses for the transfer of the two parcels of land to wit, L. R. No. MWIMBI/CHOGORIA/501, and L.R. No. MWIMBI/CHOGORIA/2152.
6. ***THAT*** the two cases, i. e. Meru H. C. Petition No. 17B of 2012 and this Civil Suit No. 203 of 2010 be marked as settled in the fore-going terms, as both relate to the same subject matter.”

The terms of the consent are adopted as an order of this court. As orders of the court can not be issued in vain, should any of the parties fail to co-operate in the implementation of this order, the Executive Officer of this Court will execute the transfer documents and any other documents which may be required to effectuate the implementation of the terms of this Order. The suit is marked as settled and finally determined and the parties may not return it to Court.

It is so ordered.

Delivered in Open Court at Meru this 31st day of July, 2014 in the presence of:

Cc Daniel

Carlpeters Mbaabu

Njeru for defendant – absent

P. M. NJOROGE

JUDGE