



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MERU**

**PETITION NO. 17B OF 2012**

**THAMBU MUKUNGA.....PETITIONER/APPLICANT**

**VERSUS**

**THARAKA NITHI COUNTY GOVERNMENT.....1ST RESPONDENT**

**GOVERNOR OF THARAKA NITHI COUNTY.....2ND RESPONDENT**

**PRINCIPAL SECRETARY, MINISTRY OF AGRICULTURE,**

**LIVESTOCK AND FISHERIES.....3RD DEFENDANT**

**PRINCIPAL SECRETARY, MINISTRY OF**

**DEVOLUTION AND PLANNING.....4TH DEFENDANT**

**ATTORNEY GENERAL.....5TH RESPONDENT**

**J U D G M E N T**

The Petitioner in his petition dated 12th day of September 2012 humbly prays for:

**(a) A permanent injunction, restraining the 1st, 2nd and 3rd respondents and their representative, successors, agents, servants, employees, contractors or anybody else acting at their behest, direction or instruction, from entering into, trespassing onto, effecting any form of construction/development onto, and/or whatsoever interfering with the petitioner's quiet, peaceful, undisturbed uninterrupted, exclusive and actual possession, user and enjoyment of L. R. NO.MWIMBI/CHOGORIA/501, measuring about 424 Hectares, pending hearing and determination of Meru H.C.C.C. No.103 of 2010.**

On 24.7.2014, Mr. Murithi, holding brief for Mr. Njeru for the 1st Respondent, Tharaka Nithi County Government, moved the Court, by way of the plaintiff's Notice of Motion dated 2014, to grant the orders sought therein. The application sought orders:

- 1. That the application be certified extremely urgent and it be heard on priority basis.**
- 2. That this petition and Meru H.C.C. No. 103 of 2010 which concerns the same parties and subject matter, be deemed as settled in terms of the consent datd 30.6.2014.**

**3. That cost of the application be in the cause.**

The application is supported by the Affidavit of Thambu Mukunga, the Petitioner/Applicant on the following grounds:-

- 1. That the petitioner/applicant is over 76 years and is quite decrepit.**
- 2. That the petitioner/applicant is hypertensive and his medical condition is deteriorating.**
- 3. That it is in the interest of the parties herein and justice that this matter be urgently settled.**
- 4. That the Court is encouraged to promote settlement of disputes by consent of parties.**

Mr. Carlpeters Mbaabu, the petitioner/applicant's advocate, supported the elaboration proffered by Mr. Murithi who was holding brief for Frank Njere for the 1st Respondent.

The apposite Consent dated 30th day of June, 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 MUKUNGA as the registered owner of L.R. NO. MWIMBI/CHOGORIA/501, and Tharaka Nithi County Government as the registered owner of L.R. No MWIMBI/2152.**
- 3. THAT both parties herein do execute all the necessary transfer documents which will facilitate and give effect 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, 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. 103 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 cannot be issued in vain, should any of the parties fail to cooperate in the implementation of this order, the Executive Officer of this court will execute the apposite transfer documents and any other documents which may be required in the effectuation of this order.

For avoidance of doubt, this suit is marked as settled and finally determined and the parties may not bring it back to Court.

It is so ordered.

**Delivered in Open Court at Meru this 28th day of July, 2014 in the presence of:**

**Cc Daniel/Lilian**

**Carlpeters Mbaabu for Applicant**

**Miss Makori for 3rd, 4th and 5th defendant**

**No representation for other parties**

**P. M. NJORGE**

**JUDGE**