



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI

CIVIL SUIT NO: 35 OF 2008

G W G.....APPLICANT

VERSUS

J G M.....RESPONDENT

JUDGMENT

1. The Originating Summons dated 4th August 2008 seeks declarations with respect to several properties allegedly bought or acquired during the matrimony of the plaintiff and the defendant.

2. The assets in question are:-

- (a) Ruiru/ Kiu Block [*particulars withheld*]
- (b) Ruiru/Kiu Block [*particulars withheld*]
- (c) Mathare North – [*particulars withheld*]
- (d) Kayole – [*particulars withheld*]
- (e) Kahawa Sukari Plot No. [*Particulars withheld*]
- (f) Kahawa Sukari Plot No. [*Particulars withheld*]
- (g) Greenfields Plot – Harambee Sacco Plot No. [*Particulars withheld*], Nairobi
- (h) Gatura (Gatanga) shopping Centre – Plot
- (i) Kariuki Gachea Resources (Nairobi – [*particulars withheld*])
- (j) Kanyi Mwa Estates Plots Nos: [*particulars withheld*]
- (k) LR Nos. [*Particulars withheld*] and [*particulars withheld*] (6) Naivasha.
- (i) Gatura Plot (Gatura next to the [*particulars withheld*])
- (m) Loc. 16/Gaturu/ [*particulars withheld*]
- (n) Loc.16/Gatura/ [*particulars withheld*]

- (o) Loc.16/Gatura/ **[particulars withheld]**
- (p) Loc. 16/Gatura/ **[particulars withheld]**
- (q) Loc. 16/Gatura/ **[particulars withheld]**
- (r) Mitubiri/Wempa/Block **[particulars withheld]**
- (s) Nyandarua/Milangine/ **[particulars withheld]**
- (t) Nyandarua/Milangine/ **[particulars withheld]**
- (u) Nyandarua/Milangine/**[particulars withheld]**
- (v) **[Particulars withheld]** (ex-GK **particulars withheld**)
- (x) Business known as **[particulars withheld]** Enterprises
- (y) Business known as **[Particulars withheld]** Commodities

3. The affidavit in support of the Originating Summons is sworn by the plaintiff on 4th August 2008. The parties married in church on 3rd October 1981. They have five (5) children, born between 1989 and 1993. She alleges that the assets listed in paragraph 2 above were financed directly by both of them. The marriage broke down and she was forced to file Separation and Maintenance Case No. 2 of 2008. She expresses fear that the defendant may sell some of the assets. She has attached a copy of certificate of marriage, copies of birth certificates of the children, title documents in respect of some of the assets, receipts to evidence her contribution to the purchase of the assets and payment vouchers.

4. The respondent swore an affidavit on 30th March 2009 in reply. He admits the marriage between the parties but states that they have not been living together as husband and wife since 2008. He concedes existence of the assets listed in the Originating Summons, but asserts that he bought some of them his single-handily while others were inherited from his father and he holds them in trust for other family members, while the rest were jointly financed by his parents, brothers and sisters. He states that the plaintiff did not contribute to the acquisition of the assets since she was at the time causing the trouble instead.

5. On 29th September 2010 the plaintiff filed a bundle of documents dated 16th September 2010. She has attached copies of title documents showing that the landed property was acquired by the defendant after the parties got married. There are various receipts in the name of the plaintiff showing that plaintiff contributed in the acquisition of the said assets and their development. There are also documents that she procured loans from various institutions during that period.

6. The plaintiff testified on 26th April 2012 and 20th May 2013. She gave vent to the allegations made in her affidavits and explained the documents in her bundle of documents.

7. The defendant did not file a bundle of documents. The plaintiff was not cross-examined, for the defendant and his counsel did not attend court at the conclusion of her evidence –in- chief. Her allegations as made in her papers were not adequately controverted nor was her evidence-in-chief contested.

8. I am persuaded from the material before me that the plaintiff did contribute to the acquisition assets now registered in the name of the defendant. She is entitled to the orders sought in the Originating Summons dated 4th August 2008. I do hereby grant the orders sought in prayers 1,2,3,4,5,6,7,8,9,10,11,12,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39,40,41,42,43,and 44 of the said Originating Summons.

DATED, SIGNED and DELIVERED at NAIROBI this 26th DAY OF September, 2014.

W. MUSYOKA

JUDGE

In the presence of Mrs. Thongori for Mrs. Wambugu advocate for the applicant.

In the presence of Mr. Omino advocate for the respondent.