



**Kariuki v Ngari (Environment & Land Case 200 of 2011)
[2022] KEELC 4913 (KLR) (19 May 2022) (Ruling)**

Neutral citation: [2022] KEELC 4913 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYERI
ENVIRONMENT & LAND CASE 200 OF 2011**

L WAITHAKA, J

MAY 19, 2022

BETWEEN

JOHN MWANGI KARIUKI APPLICANT

AND

JOHN CHUMARI NGARI RESPONDENT

RULING

1. By a judgment delivered on October 28, 2015, this court issued a declaration that the Plaintiff's right and interest in the suit land parcel No. Gatarakwa/Gatarakwa/190 has been extinguished and that the defendant has acquired land parcel No. Gatarakwa/Gatarakwa Block 1/190 by way of adverse possession. Consequently, this court ordered that the plaintiff holds the land in trust of the defendant and ordered the plaintiff to transfer the suit land to the defendant.
2. Subsequently, the defendant/applicant extracted the decree ensuing from the judgment but has not been able to execute it. The decree was issued on February 19, 2016.
3. Lamenting that owing to refusal by the plaintiff to execute the documents required to facilitate execution of the decree issued in his favour, the decree has remained unexecuted; the defendant/applicant filed the notice of motion dated November 5, 2018 seeking an order directing the Deputy Registrar of this court to sign all the documents required to effect transfer of the suit property on behalf of the plaintiff/respondent. The defendant/applicant also prays that the County Land Registrar, Nyeri be directed to dispense with production of the original title deed in respect of the suit property; photocopy of the plaintiff/respondent's ID, Pin Certificate and passport size photograph while effecting transfer of the suit property to the defendant/applicant.
4. The application is premised on the grounds that the plaintiff/applicant has refused to sign and provide to the defendant/applicant the documents required to effect transfer of the suit property to the defendant/applicant; that owing to the plaintiff/respondent's refusal to sign the documents required



to transfer the suit property to the applicant, the judgment and decree issued in favour of the applicant has remained unexecuted; that the judgment and decree issued in favour of the defendant/applicant has not been appealed from and that unless the orders sought are granted the judgment and decree issued in favour of the defendant/applicant may be rendered nugatory.

5. Despite having been served with the application, as attested by the affidavit of service of the defendant/applicant's counsel filed on December 19, 2018, the plaintiff/respondent did not file a response to the application.
6. Being of the view that the orders sought are necessary for purpose of execution of a decree of this court, which decree has remained unexecuted for a long period of time (now over 6 years), I find the application to be having merits. Consequently, I allow it as prayed.

DATED AND SIGNED AT ITEN THIS 9TH DAY OF MAY, 2022.

L. N. WAITHAKA

JUDGE

READ, SIGNED AND DELIVERED AT NYERI THIS 19TH DAY OF MAY, 2022.

J. O OLOLA

JUDGE

