



**Mbuga v Nyamache (Environment & Land Case 104 of 2021)
[2022] KEELC 47 (KLR) (10 May 2022) (Ruling)**

Neutral citation: [2022] KEELC 47 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
ENVIRONMENT & LAND CASE 104 OF 2021**

JM KAMAU, J

MAY 10, 2022

BETWEEN

KABETE MBUGA PLAINTIFF

AND

NYAKANGI NYAMACHE DEFENDANT

RULING

1. Counsel for the Decree Holder has owned up that the Application dated 06/07/21 was heard and determined without the Judgment Debtor being given an opportunity to be heard. This had not been brought to the attention of the court when the Application was being heard and determined. This therefore resulted in miscarriage of justice. In the premises, the orders made on 02/12/2021 cannot stand save what counsel for the Judgment Debtor has acquiesced to i.e. that the substitution of the Judgment Debtor by the proposed Wilfred Moriasi Ombui be made.
2. As to the other orders I invite parties to address me by way of written Submissions which should be filed and served first by counsel for the Judgment Debtor within 14 days after service on the issue of whether the Decree is executable or not. Thereafter, the Decree Holder shall file his written Submissions and serve them within 14 days from the date of service of the Judgment Debtor's Submissions. Both Counsel will then appear in open court on 14/06/2022 to highlight on their Submissions.
3. This is the order of the court delivered in the presence of both Counsel.
4. Ruling dated, signed and delivered at Nyamira this 10th Day of May, 2022

MUGO KAMAU

JUDGE

In the Presence of:

Court Assistant: Sibota



Plaintiff: Mr. Masese

Defendant: Ms. Nyaenya

