

REPUBLIC OF KENYA

IN THE HIGH COURT

AT KAKAMEGA

Civil Case 483 of 1993

STANLEY MAYODI.....PLAINTIFF/APPLICANT

VERSUS

JAMES SAKWA MUKOLWE.....DEFENDANT/RESPONDENT

RULING

The Notice of Motion application dated 24.11.2011 seeks orders that the decree granted herein be amended and the annexed amended decree be deemed as duly amended upon payment of requisite court fees.

The application is supported by the supporting affidavit of STANLEY MAYODI, the Plaintiff/Applicant.

The main ground for the application is that the decree herein has errors arising out of an accidental omission. That by genuine mistake, the applicant quoted title **No. Butsotso/Shikoti/1859** instead of **No. Butsotso/Shikoti/4464**. That the two aforesated land parcels are adjacent and they share a boundary and when the surveyor went to execute the court decree, it was found that the applicant occupied land parcel NO. BUTSOTSO/SHIKOTI/4464.

There was no attendance on the Respondents part although service had been duly effected. No papers were filed in opposition to the application.

I have considered the application. The judgment herein which was delivered on 4th November, 1998 relates to land parcel **No. Butsotso/Shikoti/1859**. The proposed amended decree is therefore not in tandem with the judgment. The proposed decree herein has no legs to stand on. If there is any solution to the applicant's problem, same does not lie in the mere amendment of the decree.

With the foregoing, the application fails with costs.

Delivered, dated and signed at Kakamega this 22nd day of March, 2012

B. THURANIRA JADEN
J U D G E