



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MALINDI

Civil Suit 74 of 2007

HARRISON K. NDUNDIPLAINTIFF

VERSUS

SAMUEL KIIRU KAMAUDEFENDANT

R U L I N G

By a Notice of Motion dated 7th October 2009 made under Section 3A and 63 of the Civil Procedure Act and section 45 of the Trustees Act, the applicant Harrison Kenga Ndundi prays for orders that Land Parcel No. Tezo/Roka315 be vested in the plaintiff/applicant

- (b) That the Land Registrar, Kilifi do rectify the register to reflect the change into the name of the plaintiff/applicant from that of the defendant.

It is premised on grounds that a vesting order is the only instrument through which to give effect to the judgment of this court, and it is in the interests of justice that these orders are granted.

The application is supported by the affidavit sworn by the applicant in which he states that he commenced proceedings in a claim for adverse possession against the defendant in respect of Land Parcel No. Tezo/Roka/315.

The defendant was served by way of substituted service but he never entered appearance and so the matter proceeded exparte.

On 6th October 2009, judgment was delivered in his favour declaring him to have obtained title over the said parcel of land by adverse possession and that he should be registered as proprietor of the suit property in place of the defendant – a copy of the judgment is marked HKN 11.

Indeed from the records, judgment was entered in favour of the plaintiff/applicant as stated and his next step is to have the judgment, has so far not been contested and pursuant to the judgment entered, I now order that land parcel No. Tezo/Roka/315, be vested in the plaintiff/applicant.

I further direct that the Land Registrar, Kilifi do rectify the register to reflect plaintiff/applicant's name from that of the defendant.

The costs of the application be borne by the applicant.

Delivered and dated this 24th February 2010 at Malindi.

H. A. Omondi

JUDGE