



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI

CIVIL CASE NO.1792 OF 1975

NEWTON KABUI MURUHI.....1ST PLAINTIFF
JOSEPH NGUGI MURUHI.....2ND PLAINTIFF
KINYANJUI MURUHI.....3RD PLAINTIFF
GAD GITHINJI MURUHI.....4TH PLAINTIFF

VERSUS

LEAH WAMBUI KARENGE.....1ST DEFENDANT
MBURU KINYANJUI WAWERU.....2ND DEFENDANT

RULING

This is one of the oldest cases in our registry. The dispute herein involves family members and the subject matter, like in most old cases relates to parcels of land situate in Limuru in the outskirts of Nairobi.

Apparently, the dispute herein was referred to arbitration under the Chairmanship of the District Officer, Limuru who gave his verdict and presented the same to court. That verdict is captured in the order made on 24th April, 2002 by the Honourable Philip John Ransley, Commissioner of Assize (as he then was) in the following terms;

- 1. That the District Officer, Limuru be and is hereby directed to identify the specific title and land reference numbers allocated/awarded to the respective parties herein.**
- 2. That the cost be the cause.**

Subsequent thereto, several applications have been filed at the instance of the plaintiffs/applicants herein. The record before me is awash with such applications and for purposes this ruling let me just mention the dates of two such applications;

- 1. Notice of Motion dated 17th January, 2003 seeking to set aside the orders made on 24th April, 2002.**
- 2. There is also an application by way of Notice of Motion dated 11th June, 2003.**

In the 1st application Rimita J. struck out the application because the affidavit in support of the application had not been commissioned. That led to the filing the 2nd application. That application was allowed by Ransley J. on 17th July, 2003 whereby the learned judge set aside the orders of 24th April, 2002. There was no application to review or set aside or appeal the orders of Ransley J. dated 17th July, 2003 aforesaid.

The present application is a Notice of Motion dated 29th April, 2009 which seeks the following orders;

1. That this honourable court review the order given on 24th April, 2002; and

2. In the alternative this court be pleased to direct the District Officer, Limuru together with the Land Registrar and District Surveyor Kiambu, to identify and demarcate the specific title numbers and plots reference numbers awarded to the respective parties on 24th May, 2002.

Both learned counsels have filed submissions in this matter. I have gone through the entire record. With profound respect, there is no order on record capable of being reviewed or implemented in terms of the orders set out in this application. I say so because, the order of 24th April, 2002 which has been repeated in more or less word for word in this application no longer exists. This is clear because, the same was set aside in 2003 at the instance of the plaintiffs who appeared before Ransley J. by way of an application dated 11th and filed on 17th June, 2003 with a specific prayer that, this honourable court sets aside the order made on 24th April, 2002.

And therefore, the submissions of both counsel notwithstanding, I elect to say no more in this matter because there is no court order to be addressed in line with the said orders. I only wish to add that litigation must come to an end. My view is that there must be finality in any litigation and while I order that this application be dismissed with costs to the defendants, there must be a rider that, no further applications shall be entertained in this suit without the leave of the court.

Orders accordingly.

Dated, signed and delivered at Nairobi this 21st day of October, 2010.

A. MBOGHOLI MSAGHA
JUDGE