



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NYERI

Succession Cause 94 of 1996

IN THE MATTER OF THE ESTATE OF SOLOMON MUCHIR MACHARIA – DECEASED

JANE WANJIRU MUCHIRI ..... PETITIONER

Versus

PHOEBE WATETU MUCHIRI ..... OBJECTOR

RULING

This court by its judgment dated 15<sup>th</sup> November 2007 gave the applicant Phoebe Watetu Muchiri 7.15 acres of Endarasha scheme No. 61. Phoebe Watetu has now brought a summons before court dated 19<sup>th</sup> November 2008. She seeks for a prayer that the Deputy Registrar of this court do execute all the necessary documents to facilitate the transfer of that land into her name as per the judgment of this court. In her short affidavit in support she stated that the respondent Jane Wanjiru Muchiri filed an appeal against the said judgment and was therefore declining to sign papers to effect the judgment of the court. She stated that it is important for the orders sought to be granted to enable her enjoy the fruits of her judgment. The respondent in her replying affidavit confirmed that she had filed an appeal and had obtained the proceedings and a certificate of delay. The appeal had therefore been lodged at the Court of Appeal. To date it has not been fixed for hearing. The respondent then stated that no documents had been sent to her which she had declined to sign. In her view however the interest of justice would be served by maintaining status quo. I have considered the arguments for and against the application. Judgment was delivered on 15<sup>th</sup> November 2007 in favour of the applicant. Even if the respondent has filed an appeal she has not sought stay of execution. For that reason in my view the orders sought by the applicant should be granted to ensure that the judgment of this court is effected. The orders of this court are as follows:-

***1. That this court does hereby authorize the Deputy Registrar of this court to execute all necessary documents to facilitate the transfer of 7.15 acres of Endarasha scheme no. 61 to Phoebe Watetu Muchiri.***

***2. The applicant is awarded costs of the summons dated 19<sup>th</sup> November 2008.***

***Dated and delivered this 10<sup>th</sup> day of February 2009***

**MARY KASANGO**

**JUDGE**