



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO
Civil Suit 50 of 2006

CHEBALUNGU KONGASIS TRADING CO. PLAINTIFF

VERSUS

LIVINGSTONE MILGO DEFENDANT

RULING

Application to review/rectify decree Notice of Motion 26th July, 2007

I: Background

1. The delay in this matter is regretted.
2. Livingstone Milgo was secretary to M/S Chebalungu Kongasis trading company, the applicant original plaintiff herein. He registered the property of the company being LR. 7388/133 in his name. The company filed suit in the Resident Magistrates Court at Kericho No. 143/1980 and sought orders of declaration that the land indeed belongs to the said company. The parties attended to court and on 27th March, 1981 the parties by consent agreed that the said suit be accordingly declared as belonging to the company (*ICC Wambilyanga RM (as he was then)*).
3. Twenty five years later the applicant filed an originating summons before this court (20.6.06) seeking the same prayers. No explanation is given as to this action. The same was granted (*Kimaru J*) (2.11.06).
4. A year later it was proved that there was an error on the record. The applicants file this application herein for my consideration.

II: Application Notice of Motion 26th July, 2007

5. The application seeks to review the court order issued.
6. The reasons for seeking the review is that the decree had an error. That the land parcel was stated as LR 7388/133 instead of LR 7288/133.

III: Findings

7. The information placed before Kimaru J was that the land parcel was LR 7388/133. It is only after the applicant sought registration did it transpire that the correct title was 7288/1333. In this review the original title deed was attached showing the correct owner and number therein.
8. The respondent had no objection to this application.

9. I would accordingly confirm, due to the delay in this matter since 1980, that the Decree be reviewed and rectified being LR 7288/133 and not LR 7388/133.

10. The application is granted and orders accordingly. There will be no orders as to costs.

DATED this 14th day of May, 2009 at **KERICHO**

M.A. ANG'AWA

JUDGE

Advocates

N.O. Migiro from the firm of M/S N.O. Migiro & Co. advocate for the Applicant/Plaintiff – present

N/A for the Respondent in person