

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

IN THE MATTER OF REGISTRATON OF TITLES ACT CAP 281 LAWS OF KENYA

AND

IN THE MATTER OF CERTIFICATE OF TITLE NUMBER CR. 11336/1. MN/VI/1552

AND

IN THE MATTER OF PETERSON KARIUKI RUIRIE APPLICANT

RULING

These proceedings have been commenced by a Notice of Motion by one, Peterson Kariuki Ruirie (hereinafter “the applicant”) who seeks leave to change to himself Plot No. MN/VI/1552-CR 11336/1 registered in the names of Kelvin Rurie Kariuki and Edwin Munyua Kariuki (both minors). The application is based on the grounds that the applicant is desirous of applying for mortgage facilities using the said property as security but cannot do so because the property is registered in the names of the said minors who have no capacity to execute security documents. The applicant contends that he requires the mortgage facility to finance the education of the said minors.

The application has however, not moved the court appropriately as a Notice of Motion cannot originate such proceedings. I symphathise with the applicant who has no training in law. Courts do not however, decide matters on the basis of sympathy. I have no alternative but strike out the application with no orders as to costs.

It is so ordered.

DATED AND DELIVERED AT MOMBASA THIS 28TH DAY OF AUGUST 2009.

F. AZANGALALA

JUDGE

Read in the presence of: -

The applicant.

F. AZANGALALA

JUDGE

28.8.2009