



REPUBLIC OF KENYA



KENYA LAW
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**Kariuki v Njuguna (Environment & Land Case 482 of 2009)
[2022] KEELC 13653 (KLR) (13 October 2022) (Ruling)**

Neutral citation: [2022] KEELC 13653 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 482 OF 2009
LN MBUGUA, J
OCTOBER 13, 2022**

BETWEEN

ALBERT KANAKE KARIUKI PLAINTIFF

AND

WINNIE KARIMI NJUGUNA DEFENDANT

RULING

1. The application before me is dated April 8, 2022 where the defendant seeks the following orders:
 - “ a. Spent.
 - b. That this honorable court be pleased to acknowledge and allow the change of advocates in this suit from the firm off M/s Morris Njage & Co Advocates To Messr Ano Advocates who have been instructed by the applicant to take up this matter and prosecute this application on her behalf.
 - c. That this honorable court be pleased to order the cancellation of the caution filed and maintained by the respondent as entry no 7 on the green card dated November 28, 2008 for parcel of land registered as LEASEHOLD NAIROBI/ BLOCK/97/1641 forthwith.
 - d. That this honorable court be pleased to order the land registrar to forthwith cancel the caution by the respondent dated the November 28, 2008 being entry no 7 on green card for parcel of land registered as NAIROBI/ BLOCK/97/1641.
 - e. That the respondent be condemned to pay the costs of this application.”



2. The application is premised on the grounds that
 - a. At the material times, before during and after the determination of this suit, the applicant was and still is the registered proprietor of the suit parcel NAIROBI/LOCK/97/1641.
 - b. That at the conclusion of the suit and by decree of this court dated March 4, 2016, the respondent's claim to the suit land were dismissed with costs.
 - c. That the caution by the respondent is a vexatious encumbrance on the applicant's property.
3. The applicant has also sworn a supporting affidavit where she has reiterated the averments set out in the application.
4. The plaintiff allegedly filed grounds of opposition dated May 30, 2022, but in reality, nothing was filed by this party in opposition to the application, not even submissions as directed by the court on July 19, 2022 as no such documents can be found in the digital platform (CTS) or in the physical file.
5. I have considered the application and the submissions of the applicant. I find that judgment herein was entered on March 4, 2016 in which plaintiffs suit was dismissed while defendant's counter claim was allowed. There is no evidence of any pending litigation. It follows that the orders sought are meant to give effect to the judgment of this court particularly in prayer "b" of the defendant's counter claim.
6. I thus find that the application dated April 8, 2022 is merited. The same is allowed with costs to the applicant.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13TH DAY OF OCTOBER, 2022 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Nyaga holding brief for Mr. Kurauka for the Plaintiff

Musyoka for the Defendant/Applicant

Court assistant: Eddel/Joan

