



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT MERU**

**Civil Case 63 of 1986**

**JULIA MANGANGI ..... PLAINTIFF**

**VERSUS**

**M'BUNDI M'RINGITHIA ALIAS JANARU MUTUMA .....DEFENDANT**

**M'MBWIRIA M'RINGITHIA ..... APPLICANT**

**RULING**

This application was argued *ex parte* as the respondent did not respond to it or appear in court on the hearing date. However, before I consider the application which, in the main, is seeking an order empowering the Executive Officer of this court to execute transfer documents in respect of the suit property, it is proper to outline briefly the genesis of this dispute. The applicant's father Julia Manga'ngi M'Rigithia brought the suit herein against his son, M'Bundi M'Rigithia alias Janaru Mutuma claiming parcel of Land No.U-Abothuguchi/L.Kaongo/14 (the suit land) measuring 13.41 acres.

That claim was based on the ground that the suit land was initially the plaintiff's, who decided to have it registered in the name of the defendant to hold in trust for the rest of the family members.

That the defendant breached the trust by refusing to sub-divide and register the divisions in favour of the members of the family. The defendant, of course denied these averments in his defence. On 23<sup>rd</sup> September, 1986 the High Court (Torgbor, J) directed, by consent of the parties, that the dispute be referred to arbitration by the D.O North Imenti.

On 8<sup>th</sup> June, 1987 the award of the arbitration was filed and on 9<sup>th</sup> July, 1987 judgment entered in terms of the award and a decree drawn. The arbitrators found that the suit land was held in trust and ordered that it be shared between the plaintiff's sons as follows;

- Bundi Rigithia (the defendant) – 8.41 Acres
- M'Mbwiria M'Riugithia(the applicant) – 2.5 acres
- Joseph Ntatho – 2.5 acres

It is alleged in the present application that the defendant/respondent has failed and/or refused to satisfy the decree. As I have stated the defendant/respondent has not participated in this application hence the court cannot speculate on why he has failed to comply with a decree issued several years ago. There is no evidence that the plaintiff appealed against the judgment. The applicant and the other two beneficiaries are not without a remedy.

In view of the clear judgment herein it is ordered that the Deputy Registrar of this court shall execute all relevant documents in respect of the sub-division and registration of parcel

No.L.Abothuguchi/L.Kaongo/14 in terms of the decree.

No orders as to costs.

DATED AND DELIVERED AT MERU THIS 15<sup>TH</sup> DAY OF JUNE, 2007

W. OUKO

JUDGE