



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (MILIMANI COMMERCIAL COURTS)**

**Civil Case 3629 of 1987**

**1. SIMON MWANGI WARIAHE**

**2. MARY WANJIKU .....PLAINTIFF**

**V E R S U S**

**DEDAN KANUAGA WARIAHE .....DEFENDANT**

**R U L I N G**

There has been considerable delay in the preparation and delivery of this ruling. The same was occasioned by my serious illness in the years 2005 and 2006 and the long attendant recuperation. The delay is regretted.

This is an application by the Plaintiffs for an order that the District Land Registrar, Murang'a be authorised to issue another title deed in the name of JERUSHA NYAMBURA KANYUGA in respect to land parcel No. Loc. 19/GACHARAGE-INI/2603. The application is expressed to be brought under sections 3 and 3A of the Civil Procedure Act, Cap. 21 and also under section 33 of the Registered Land Act, Cap. 300. The grounds for the application are that the original title of the said parcel of land is irretrievably lost or misplaced and that the District Land Registrar is unable to transfer the parcel of land unless the original title is surrendered to him. There is a supporting affidavit sworn by the 1<sup>st</sup> Plaintiff. The said affidavit discloses that a new title is sought in order to effectuate the decree of the court made herein and also the order of the court made herein on 29<sup>th</sup> April, 2002.

The application was duly served upon the Defendant. She did not file any papers in response to the application.

I am satisfied that the order sought will be in the interest of justice in this matter. I will therefore grant the application as prayed with no order as to costs. There will be orders accordingly.

DATED AT NAIROBI THIS 15<sup>TH</sup> DAY OF AUGUST, 2007

**H. P. G. WAWERU**

**J U D G E**

**DELIVERED ON 17<sup>th</sup> DAY OF AUGUST, 2007**