



REPUBLIC OF KENYA



KENYA LAW
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**Laaru v Laaru (Environment and Land Appeal 32 of 2019)
[2022] KEELC 14820 (KLR) (16 November 2022) (Ruling)**

Neutral citation: [2022] KEELC 14820 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND APPEAL 32 OF 2019
CK NZILI, J
NOVEMBER 16, 2022**

BETWEEN

JULIUS KAILIKIA LAARU APPELLANT

AND

PETER KAIGERA LAARU RESPONDENT

*(Being an Appeal from the judgment of Hon. G. Wakabiu (CM)
delivered in Maua Law Courts on 27.12.2018 in CMCC NO. 7 of 2001)*

RULING

1. By an application dated August 3, 2022, the applicant seeks that the court authorizes or directs the sub county land registrar Tigania sub county to dispense with the original title deed for LR No Tigania/ Kitharene/419 for the purposes of implementing the decree issued on May 23, 2022.
2. The application is supported by the affidavit of Julius Kailikia Laaru sworn on the even date. The grounds of the application are that the respondent has refused to cooperate in the implementation of the decree by surrendering the original title deed despite the survey and subdivision work having been done to curve out the ten acres off the original land as directed by the court.
3. The respondent has opposed the application through his replying affidavit sworn on May 31, 2022. He says that he has appealed against the decision and sought for stay of execution in Nyeri Court of Appeal Civil Application No. 4 of 2022 dated January 28, 2022. That he is in occupation of the suit land alongside his family, which is his only source of income and that the applicant has his own land elsewhere. That if the execution ensues he will be rendered a vagabond. That the land survey left a trail of destruction while establishing a boundary. That it was only fair and in the interest of justice to maintain the status quo.



4. Section 31 (1) of the *Land Registration Act* allows the Land Registrar to dispense with the production of a certificate of title to land or lease during the registration of any dealing with the land or lease upon an application to him by a party.
5. Under section 86 (1) of the *Land Registration Act*, the court can intervene if a question arises with regard to the exercise of any power or performance of any duty conferred or imposed on the Land Registrar by the Act, upon an application by either the Registrar or the aggrieved party.
6. By a ruling delivered on May 11, 2022, the court allowed the Deputy Registrar to sign the subdivisions and transfer for and on behalf of the judgment debtor, said to be uncooperative. To date, no stay of execution orders have been served upon this court. The respondent has not given any reasons why execution should not be issued. Pendency of an appeal does not amount to stay of execution. Even if the appeal was to succeed the entries to the records and the title deed can still be cancelled and or be recalled.
7. Therefore, I find it is in the interest of justice to allow the application sought with no orders as to costs.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT THIS 16TH DAY OF NOVEMBER, 2022

In presence of:

C/A: Kananu

Gitonga for appellant

Applicant

Kaume for respondent

HON. C.K. NZILI

ELC JUDGE

