

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT KISII

Civil Case 271 of 1997

ISAYA MOGONCHI MOGONCHI PLAINTIFF

VERSUS

SAMWEL ONDARI MOGONCHI DEFENDANT

RULING:

The applicant seeks for orders nominating the Executive Officer of the court to sign all necessary documents and forms to enable sub-division, transfer and registration of a portion of 5 acres of land from land No. MAJOGGE/BOSOTI/1143 in his name. The parties had a suit which went all the way to court of appeal. The court of appeal ordered the defendant get a portion of 5 acres from the said land. He deponed that the respondent has declined to execute the necessary forms.

Application was not opposed. No grounds of opposition or replying affidavit was filed. Application therefore proceeded exparte.

I have carefully considered the application. I find it has merit. There is no dispute that the court of appeal ordered that the applicant get five acres. Respondent should have facilitated the transfer of the said portion by signing the necessary documents.

He has not done so and court is told he is reluctant to do so.

He has not given any reason why he should not sign those documents.

In the circumstances I allow the application and order that the Executive Officer of the court do execute all the necessary documents to facilitate the ultimate transfer of the said portion to the applicant. Costs in the cause.

Dated 28th February 2006.

KABURU BAUNI

JUDGE