



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**CHUKA ELC MISCELLANEOUS JUDICIAL REVIEW APPLICATION CASE NO. E002 OF 2020**

**REPUBLIC.....APPLICANT**

**VERSUS**

**THE CABINET SECRETARY MINISTRY OF LANDS &**

**PHYSICAL PLANNING.....1<sup>ST</sup> RESPONDENT**

**THE DIRECTOR OF LAND ADJUDICATION & SETTLEMENT.....2<sup>ND</sup> RESPONDENT**

**THE CHIEF LAND REGISTRAR.....3<sup>RD</sup> RESPONDENT**

**THE ATTORNEY GENERAL OF KENYA.....4<sup>TH</sup> RESPONDENT**

**AND**

**RAUNI NKARI.....INTERESTED PARTY**

**PHARES MUGAMBI .....EXPARTE APPLICANT**

**RULING**

1. The Land Registrar Chuka, Mr. Mwit Njue, had been ordered by court to explain the circumstances under which a title deed had been issued in contravention of a stay order issued by the court.
2. The Land Registrar explained that he had received a letter dated 23<sup>rd</sup> September, 2020, instructing him to issue a title deed to the interested party. He told the court that the relevant court order had been given to the Land Registry clerks who did not bring it to his attention. He told the court that he was remorseful and that he did not knowingly disobey a court order. He asked the court to forgive his innocent infraction.
3. I find that the Land Registrar had purged his alleged disobedience of a court order.
4. The exparte applicant and the interested party asked the court to adopt a consent which would allow for the cancellation of the impugned title. The consent is dated 17<sup>th</sup> February, 2021 and reads as follows:

**CONSENT**

1. That an order be issued cancelling the title deed issued to the interested party Rauni Nkari in respect of LR. No. Marambo/Rianthiga/106.
2. There be no order as to costs.

Signed

Muthomi h/b Momanyi signed for the ex-parte applicant

Kiongo for 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents

I.C. Mugo for the Interested Party

Dated this 17<sup>th</sup> February, 2021 at Chuka.

5. The consent is adopted as an order of this court.

6. The following orders are issued:

a. The consent submitted by the parties seeking an order for cancellation of the Title in respect of LR No. Marembo/Rianthiga/106 is adopted as an order of the court.

b. The Land Registrar, Chuka, is hereby ordered to cancel the Title for LR. No. Marembo/Rianthiga/106 immediately and restore the status quo extant before the said title was issued.

c. The Land Registrar, Mr. Mwiti Njue to **personally come to court on 15.3.2021** to confirm that order (b) above has been implemented.

d. By consent, parties to file fresh submissions and the respondents to also file responses concurrently **within 21 days of today**.

e. By consent, **directions on 15.3.2021**.

Delivered in open Court at Chuka this **17<sup>th</sup> day of February, 2021** in the presence of:

CA: Ndegwa

Muthomi Gitari h/b Momanyi for the ex-parte applicant

Kiongo for 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> respondents

I.C. Mugo for the Interested Party

**HON. JUSTICE Dr. P. M. NJOROGE,**

**ELC JUDGE.**