



**Babu v Land Registrar – Kisii & 2 others (Environment and Land
Case 546 of 2015) [2025] KEELC 5207 (KLR) (9 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5207 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISII
ENVIRONMENT AND LAND CASE 546 OF 2015**

M SILA, J

JULY 9, 2025

BETWEEN

KAYUS MOKAYA BABU PLAINTIFF

AND

LAND REGISTRAR – KISII 1ST DEFENDANT

THE HON ATTORNEY GENERAL 2ND DEFENDANT

CHARLES OMOOSA KAYUS 3RD DEFENDANT

RULING

1. The application before me is that dated 24 March 2024 filed by the plaintiff. He seeks an order for the Executive Officer of the court to execute on the plaintiff's behalf all forms, instruments and other documents necessary for subdivision of the land parcel Nyaribari Chache/B/B/Boburia/5343 and transfer an identifiable portion measuring 125 x 100 feet to the plaintiff.
2. The application is based on the grounds inter alia that the parties herein recorded a consent wherein it was agreed that the plaintiff is entitled to a portion measuring 125 x 100 feet out of the suit land; and that despite the consent, the 3rd defendant/respondent has been evasive and refused to transfer this portion to the plaintiff.
3. I have gone through the record. The plaintiff/applicant commenced suit vide a plaint filed on 11 December 2015 which he subsequently amended. He sued the Land Registrar and Attorney General as the 1st and 2nd defendants, and the respondent as 3rd defendant. His case was that the 3rd respondent fraudulently got registered as proprietor of the land parcel Nyaribari Chache/B/B/Boburia/2125 which he then subdivided into the land parcels Nyaribari Chache/B/B/Boburia/5342 and 5343. In his plaint, he asked for cancellation of the title Nyaribari Chache/B/B/Boburia/5343 in name of the respondent, and this particular parcel of land be transferred to him.



4. On 17 January 2023, parties recorded a consent whereby it was agreed that the plaintiff/applicant would get a portion measuring 125 x 150 feet from the land parcel Nyaribari Chache/B/B/Boburia/5343. It would appear that the respondent has not taken steps to carve out this portion to the applicant hence this application.
5. There was nothing filed to oppose the motion, though Mr. Obure, learned counsel for the 3rd defendant/respondent, raised issue that the orders as framed are not capable of being granted, since they are directed to the Executive Officer and not the Deputy Registrar.
6. It may be true that the prayers ought to have been framed in a better fashion but I think it is clear what the applicant wants. He seeks the assistance of an officer of this court in order to have the terms of the consent met.
7. On my part, I see no reason not to allow the application. I will order the Deputy Registrar, or a person authorised by him in writing, to proceed and execute all requisite forms and documents on behalf of the respondent, so as to have a portion measuring 125 x 100 feet carved out of the land parcel Nyaribari Chache/B/B/Boburia/5343, and title thereof issued to the applicant. The applicant will however meet all the expenses involved including the services of a surveyor.
8. There will be no orders as to the costs of this application as the parties are father and son.
9. Orders accordingly.

DATED AND DELIVERED THIS 9 DAY OF JULY 2025

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT

AT KISII

Delivered in the presence of :

N/A for the applicant

N/A for the respondent

Court Assistant – Michael Oyuko.

