



**Kaur v Suri (Environment and Land Case 738 of 2013)
[2025] KEELC 6029 (KLR) (17 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6029 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE 738 OF 2013
CG MBOGO, J
SEPTEMBER 17, 2025**

BETWEEN

PARAMJIT KAUR ALIAS MANDEEP KAUR PLAINTIFF

AND

AVTAR SINGH SURI DEFENDANT

RULING

1. Before this court for determination is the notice of motion dated 19th November, 2024 filed by the defendant/applicant, and it is expressed to be brought under Article 165 of the Constitution, Section 10 of the Magistrates' Court Act and Section 3A of the Civil Procedure Act seeking the following orders:-
 1. That this honourable court be pleased to set a time line on the plaintiff/respondent subdivision of Land Reference Number 4275/44.
 2. That this honourable court be pleased to order the plaintiff/respondent to give periodic update to the defendant/applicant on the subdivision of Land Reference number 4275/44.
 3. That the costs of this application be in the cause.
2. The application is supported by the affidavit of the defendant/ applicant sworn on even date. The defendant/applicant deposed that judgment was delivered in this matter on 7th June, 2023, and that he paid the decretal sum together with interests in the sum of Kshs.32,446,660.37/-. He deposed that in August 2023, the Deputy Registrar of this court executed the conveyance for the subdivision of Land Reference Number 4273/44, and that on 18th June, 2024, they wrote a letter requesting for an update on the subdivision but there was no response. The defendant/applicant further deposed that he has sought for an update on the same vide the letters dated 12th August, 2024, 29th August, 2024 and 5th November, 2024 and no response has been forthcoming.



3. The defendant/applicant deposed that the continued delay in concluding this exercise has a liability on him. Further, that the survey map presented to the Deputy Registrar fails to paint a true picture since there is a building which cuts across plot A and B, and that despite raising the same issue with the plaintiff/respondent, there has been no response.
4. Mr. Virinder Goswami, the learned counsel for the plaintiff/respondent filed a replying affidavit sworn on 3rd April, 2025 in response thereto. The learned counsel deposed that the plaintiff/respondent engaged M/s Prime & Marine Planning Consultants Limited to conduct the sub-division on their behalf, and that he is informed that the process is ongoing and in its final stages pending approval from the County Government of Nairobi and the Ministry of Lands. The learned counsel deposed that Anthony Mureithi of Prime & Marine Consultants Limited is unable to provide a specific timeline for completion of the subdivision process.
5. The learned counsel deposed that the plaintiff/respondent has no control over the processes of the County Government of Nairobi or the Ministry of Lands and as such, cannot expedite the time frame for completion of the subdivision process.
6. The defendant/applicant filed a further affidavit in response thereto sworn on 9th May, 2025. He deposed that there is no evidence of the steps taken by the Surveyor and the status of the subdivision exercise. He deposed that the plaintiff/respondent has sought to prolong the exercise and harass him. Further, that his request to be provided with the progress of the subdivision or to participate in the subdivision exercise have been frustrated. The defendant/applicant further deposed that as per the consent dated 4th March, 2014, the plaintiff/respondent was to effect subdivision but she has been dragging her feet and continues to do so even after judgment has been delivered.
7. This court directed that the application be canvassed by way of written submissions. None of the parties filed their written submissions. Be that as it may, I have considered the application, and the replies thereof. The issue for determination is whether the application has merit.
8. Pursuant to the judgment delivered on 7th June, 2023, the court ordered that the suit property to be subdivided in accordance with the consent dated 4th March, 2014. The plaintiff was to be responsible for the payment of the professional fees in the subdivision exercise. In contending with the acts of the plaintiff/respondent, the defendant applicant averred that he complied with the orders of the court by paying the decretal sum and interest and executing the conveyance instrument. However, and based on the letters written requesting for an update, there has been no response.
9. On the other hand, the learned counsel for the plaintiff/respondent contended that Prime & Marine Planning Consultants Limited were conducting the subdivision and it is unknown when the said exercise would be completed as the plaintiff/respondent has no control of the affairs of the County Government of Nairobi and the Ministry of Lands. In support thereof, the plaintiff/respondent attached a document confirming the progress of the subdivision.
10. While the court is alive to the fact that the plaintiff/respondent may not have control over the affairs of the offices responsible in ensuring that subdivision takes place, it would only be reasonable that the plaintiff/respondent gives a concrete position of the progress of the matter. One might easily suspect foul play on the part of the plaintiff/respondent for the simple reason that there is no concrete feedback or update from the company contracted to carry out the subdivision exercise. As is it, I would agree with the defendant/applicant that the period for carrying out subdivision is not infinite, and therefore the prolonged period deserves an explanation.



11. In the interest of justice, I find the notice of motion dated 19th November, 2023 to have merit. This court hereby directs as follows: -
- i. The plaintiff/ respondent to give weekly updates of the subdivision exercise of Land Reference Number 4275/44 for the next four weeks.
 - ii. The plaintiff/ respondent to follow up with the relevant bodies i.e. Ministry of Lands, Department of Survey and the County Government of Nairobi and file a report of the progress within 30 days from the date hereof.
 - iii. Further mention on 23rd October, 2025 to confirm compliance with the above orders.
 - iv. I make no orders as to costs.

Orders accordingly.

DATED, SIGNED & DELIVERED VIRTUALLY THIS 17TH DAY OF SEPTEMBER, 2025.

HON. MBOGO C.G.

JUDGE

17/09/2025.

In the presence of:

Mr. Benson Agunga - Court assistant

Mr. Muturi for the Defendant

Mr. Kamau holding brief for Mr. Goswami for the Plaintiff

