



**Ngiti v M’Mwereria (Environment & Land Case 64 of 2012)  
[2023] KEELC 20587 (KLR) (11 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20587 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENT & LAND CASE 64 OF 2012  
CK YANO, J  
OCTOBER 11, 2023**

**BETWEEN**

**PETER KIRIMI J NGITI ..... APPLICANT**

**AND**

**JOHN IKUNDA M’MWERERIA ..... RESPONDENT**

**RULING**

1. In this suit, the plaintiff claimed to have become entitled by virtue of adverse possession of 0.25 acres of land reference No Nkuene/Kithunguri/1584. In the judgment delivered on 17<sup>th</sup> December, 2022, this court entered judgment in favour of the plaintiff and declared that the plaintiff is entitled to be registered as proprietor of the said land.
2. Through an application dated 19<sup>th</sup> July, 2023, the plaintiff sought orders empowering the Deputy Registrar of this court to sign all the necessary transfer documents in favour of the plaintiff and for an order allowing the District Land Registrar to dispense with the original title deed of the suit land before proceeding to register the plaintiff as proprietor of the portion decreed. The plaintiff has explained that he is in the process of implementing the decree of this court, but the defendant/respondent is not cooperating. The application is not opposed.
3. I have considered the application and the submissions filed. I have also looked up at the law. Section 31 of the *Land Registration Act* deals with the production of certificate of title or lease while section 33 deals with lost or destroyed certificates. The issue at hand, however is not about a lost or destroyed certificate, but that the defendant has refused to cooperate in the execution of the decree herein. A look at section 31 shows that the Registrar may dispense with the production of the original certificate. In this case, there is a decree in favour of the plaintiff and it has been explained that the defendant is frustrating the implementation of the said decree.



4. It is trite law that courts do not issue orders in vain. Having given a judgment in favour of the plaintiff, it is my opinion that it is only fair that the orders sought are granted to enable the plaintiff decree/holder enjoy the fruits of the said judgment. I therefore allow the application as prayed. For the avoidance of any doubt, the portion to be transferred to the plaintiff is a portion measuring 0.25 acres out of LR No Nkuene/Kithunguri/1584. The plaintiff shall also have the costs of this application as against the defendant.
5. It is so ordered.

**DATED, SIGNED AND DELIVERED AT MERU THIS 11<sup>TH</sup> DAY OF OCTOBER, 2023**

**C.K YANO**

**JUDGE**

