



REPUBLIC OF KENYA



**In re Estate of Muchoki Gathuthi (Deceased) (Succession Cause
767 of 2015) [2024] KEHC 9412 (KLR) (25 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9412 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION CAUSE 767 OF 2015
DKN MAGARE, J
JULY 25, 2024**

BETWEEN

MATHERI ISAAC NGURU APPLICANT

AND

RICHARD MURAGE MUCHOKI 1ST RESPONDENT

CHARLES GATHUTHI MUCHOKI 2ND RESPONDENT

RULING

1. This is a Ruling in respect of the application dated 28/5/2024.
2. The Application seeks the following prayers:
 - a. The Deputy Registrar do execute the transfer forms in respect of LR No Mweiga Block 4/Mwireri/112 on behalf of the Respondents.
 - b. Nyeri County Land Registrar be ordered to dispense with the production of the respondent's Identity card, PIN certificate, passport or any other mandatory documents and issue a title deed in respect of LR No Mweiga Block 4/Mwireri/112 in absence of the said documents.
 - c. Costs be in the cause.
3. The application is based on the grounds inter alia that there is a ruling dated 12/3/2020 in favour of the Applicant distributing the suit property to the Applicant.
4. The Applicant filed a supporting affidavit deposing that the Respondents ignored the ruling and distribution schedule of court after several formal requests and reminders hence this application. The forms are attached to the Supporting Affidavit.
5. The application is not opposed.



Analysis

6. I note that the main prayers in the application are in the nature of the enforcement of the Ruling of this court and the consequential distribution as propounded. The same is valid and due for implementation as there is no evidence of appeal or stay order in place. There is no doubt that the Respondents are highly unlikely to cooperate with the Applicant. Even these proceedings are evidence. The court *In Re Estate of Wilfred Munene Ngumi (deceased)*(supra) while allowing the application for the Deputy Registrar of the court to execute completion documents thus held as follows:

“...It is evident from the Applicant’s affidavit in support of the application and oral arguments by her Advocate Mr. Kahiga, that the Respondents have refused to sign the necessary documents to facilitate execution of the court’s judgment/decree. To prevent abuse of the court process, by the above legal provisions, this court has inherent powers to prevent such abuse. I therefore find and hold that the petitioner’s summons dated 23/9/2019 and filed on 25/9/2019 to be merited...”

7. I am inclined to allow the application.

Determination

8. In the circumstances I make the following orders: -
- a. The Deputy Registrar shall execute the Transfer Forms in respect of LR No Mweiga Block 4/ Mwireri/112 on behalf of the Respondents to transfer the property to the Applicant.
 - b. The Nyeri County Land Registrar is hereby directed to dispense with the requirement for the production of the Respondents’ Identity Card, PIN Certificate, Passport or any other mandatory documents and to issue a title deed in respect of LR No Mweiga Block 4/ Mwireri/112 in absence of the said documents.
 - c. There shall be no order as to costs.

DELIVERED, DATED AND SIGNED AT NYERI ON THIS 25TH DAY OF JULY, 2024.

RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.

KIZITO MAGARE

JUDGE

In the presence of:-

Applicant present

No appearance for the Respondents

Court Assistant – Jedidah

