



REPUBLIC OF KENYA



**In re Estate of Waititu Nderitu (Deceased) (Succession Cause
161 of 2015) [2023] KEHC 19083 (KLR) (20 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19083 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
SUCCESSION CAUSE 161 OF 2015
GL NZIOKA, J
JUNE 20, 2023
IN THE MATTER OF THE ESTATE OF WAITITU NDERITU
(DECEASED)**

RULING

1. The application herein dated March 13, 2023, refers. The same is brought under section 47 of the *Laws of Succession Act* (Cap 160) of the Laws of Kenya. The applicant is seeking for orders that the Hon Deputy Registrar do execute any and all documents in place of the 1st and 2nd Administrators who have refused to execute the application for replacement of lost titles for the parcels of land named in the application.
2. The application is supported by an affidavit sworn by E Chege Nganga, an Advocate of the High Court of Kenya who has conduct of this matter on behalf of the applicants. It is also based on the grounds thereto. It is averred in a nutshell that the original title deeds in question got lost while in the custody of the deponent. That a report to that effect was made to Kitengela Police Station on October 19, 2022. That, the Hon Deputy Registrar do execute the relevant documents requiring the Ministry of Lands to re-issue the title deeds since the 1st and 2nd Respondent have refused to execute any forms distributing the land herein.
3. I have considered the subject application and find as follows
 - a. There is no report from Kitengela Police Station that upon receipt of the report herein of the loss of the subject title deeds, they have concluded investigations and are unable to recover the lost documents to warrant an order for re-issuance of new title deeds.
 - b. There is no evidence that apart from the report made to the Police Station, the matter was reported to the Registrar of Lands where the title deeds were issued.
 - c. But even more importantly no application has been made to the said Registrar of Lands for re-issuance of the new title deeds.



4. In my considered opinion, the role of the Hon Deputy Registrar was to execute the documents as per the ruling of Hon. Lady Justice G Ngenye (now JA) which has been done. The matter is basically concluded and this file should be closed. If the title deeds that were in existence have been misplaced and/or lost, it is for applicant to seek redress, recourse and action from the Registrar of Lands. This court cannot direct the Registrar or descend into an arena that will require investigations.
5. It is my finding that, once the documents executed by the Hon Deputy Registrar are submitted to the Registrar of Lands, it is the Registrar to deal with the matter, and the affidavit by the deponent herein should be filed with the Registrar of Lands to deal.
6. I therefore decline to allow the application. I direct that, the matter herein be deemed as concluded and the file closed. If the Registrar of Lands will require the documents to be signed by the Hon Deputy Registrar the court can be moved accordingly.
7. It is so ordered.

DATED, DELIVERED AND SIGNED ON THIS 20TH DAY OF JUNE 2023.

GRACE L. NZIOKA

JUDGE

In the presence of: -

Mr. Wairegi for the 1st and 2nd administrators

Ms. Odera h/b for Mr. Chege for the 3rd and 4th administrators.

