



THE REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT THIKA

ELC CASE NO. 808 OF 2017

NANCY WANJIRU WATHIRU.....PLAINTIFF

=VERSUS=

ELIJAH NJUGUNA GIKARA.....DEFENDANT

RULING

1. Judgment in this suit was rendered by Gacheru J on 8/11/2019. The subsequent decree extracted out of the Judgment reads as follows:-

“A) That Judgment be and is hereby entered for the Plaintiff as against the defendant as follows:-

i) That an order for specific performance be and is hereby issued that the defendant does alienate and transfer 1 (one) acre from land parcel Kiambu/Munyu/1273 also known as Plot 455B in Munyu Settlement into the Plaintiff’s name.

ii) That an order be and is hereby issued directing the Deputy Registrar of this Honourable Court to execute all the necessary vesting transfer forms and execute all the necessary vesting transfer forms and the Land Control Board forms on behalf of Elijah Njuguna Gikaba in respect to 1 (one) acre from land parcel Kiambu/Munyu/1273 also known as Plot 455B in Munyu Settlement Scheme.

iii) That costs of this suit are awarded to the plaintiff as against the defendant.”

2. On or about 9/9/2021, the plaintiff brought an application dated 10/8/2021 seeking an order enjoining the Land Registrar to dispense with the requirement for production of the original title for the purpose of registering the suit property in the name of the plaintiff. The application was supported by the plaintiff’s affidavit sworn on 10/8/2021. She deposed that she had approached the defendant to give her the original title deed for presentation to the Land Registrar and the defendant had declined, prompting her to bring the application. The application was not opposed.

3. I have considered the application. It was brought as part of the process of enforcing the award of the court contained in the Judgment rendered on 8/11/2019. In the absence of any opposition to the application or any order of stay of execution, I will grant the application in terms of prayer 2 of the notice of motion.

4. Consequently, the notice of motion dated 10/8/2021 is allowed in the following terms:-

(a) The Land Registrar is hereby ordered to dispense with the production of the original title in the implementation of the decree of this Court dated 8/11/ 2019 and issued on 17/12/2019.

(b) The defendant shall bear costs of this application.

DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA THIS 19TH DAY OF NOVEMBER 2021.

B M EBOSO

JUDGE

In the presence of: -

Mr. Kinyanjui for the Plaintiff

Court Assistant: Lucy Muthoni