



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**CHUKA ENVIRONMENT AND LAND CASE NO. 62 OF 2017**

**FORMERLY MERU ENVIRONMENT AND LAND CASE NO. 104 OF 2015**

**AGNES MUTHONI NYAGA...PLAINTIFF/RESPONDENT & OTHERS**

**VERSUS**

**ALICE C. ALEXANDER.....DEFENDANT/APPLICANT & OTHERS**

**RULING**

1. By a Notice of Motion dated **29<sup>th</sup> November, 2021**, the Defendants/Applicants moved the court seeking for orders:

**1.That** this honourable court be pleased to order the Deputy Registrar Chuka Law Courts to execute all documents and instruments of transfer of land KARINGANI/NDAGANI/4758 & all subdivisions to get a quarter of an acre on behalf of the applicants and a title deed be issued to the applicants.

**2.That** the District Surveyor Maara Sub County be ordered and or directed to carry the survey works for subdivision of land parcel KARINGANI/NDAGANI/4758.

**3.That** the O.C.S. Chuka Police Station do provide security during the exercise and be served with these orders for compliance.

**4.That** costs of this application be provided for.

2. The application is supported by the affidavit of PETER MURIMI sworn on **29<sup>th</sup> November, 2021** and is premised on the grounds:

a. That the instant cause was finalized and a decree was issued by this honourable court.

b. That the 5<sup>th</sup> Respondent was ordered to subdivide land parcel KARINGANI/NDAGANI/4758 into seven portions, a re-survey to be done and the same be transferred to all the Respondents and applicants and in equal shares.

c. That the costs of the survey to be met by all the parties.

d. That the resurvey was to be done in such a way that the applicants would not be displaced by the new survey process that is for them to remain in their respective portions that had been sold to them.

e. That further the applicants portions to be registered in their names.

f. That the 1<sup>st</sup> – 4<sup>th</sup> Respondents later brought in an application requesting that the 5<sup>th</sup> – 7<sup>th</sup> Respondents & the applicants be committed to civil Jail for a period of 2 years for they had disobeyed court orders.

g. That the applicants filed a Replying Affidavit denying all of the averments brought forth by the Respondents.

h. That the parties then were advised to enter into a consent considering the fact that the Respondents had even failed to comply with the decree of this honourable court.

i. That a consent was recorded as an order of the court ordering that the 5<sup>th</sup> Respondent do a re-survey on her parcel of land, putting

into consideration the development of the applicants.

j. That the 5<sup>th</sup> Respondent and others have intentionally refused to effect the court orders as per the duty bestowed upon them by this honourable court.

3. In the supporting affidavit, the Applicants have attached a copy of the decree, a copy of application dated **1<sup>st</sup> March, 2021** and a copy of Ruling delivered on **7<sup>th</sup> June, 2021**.

4. The application was served upon the Respondents who never filed any response. When the matter came up for hearing on **15<sup>th</sup> December, 2021**, Ms. Kijaru advocate for the Applicants informed the court that they received a letter from the advocates for the Respondents requesting that the Respondents be granted a period of 30 days to execute the relevant documents to facilitate the implementation of the orders of court made on **13<sup>th</sup> August, 2018**. Mr. Gachuki advocate who held brief for Mr. Kiogora Arithi advocate for the Respondents confirmed that the Respondents had requested for 30 days to enable them execute the relevant documents. Pursuant to this, the application was therefore compromised, and by consent the Respondents were granted 30 days to execute all the relevant documents and instruments in respect of the suit parcel KARINGANI/NDAGANI/4758 and all subdivisions thereto.

5. It is clear therefore that the application dated **29<sup>th</sup> November, 2021** has been compromised by the parties in the terms stated by their respective advocates. Accordingly, the application dated **29<sup>th</sup> November, 2021** is hereby marked as compromised. The consent of the parties is hereby adopted as an order of this court. The Respondents/Plaintiffs are hereby granted 30 days to execute all the relevant documents and instruments of transfer in respect of land parcel KARINGANI/NDAGANI/4758 and all the subdivisions arising therefrom.

6. Mention on **1<sup>st</sup> February, 2022** to confirm compliance.

7. It is so ordered.

**DELIVERED IN OPEN COURT AT CHUKA THIS 15<sup>TH</sup> DAY OF DECEMBER, 2021 IN THE PRESENCE OF:**

CA: Ndegwa

Ms. Kijaru for Applicants

Mr. Gichuki h/b for Kiogora Arithi for the Respondents.

**C. K. YANO,**

**JUDGE**