



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT CHUKA

CHUKA ELC SUIT NO. 1 OF 2019 (OS)

ZIPPORAH KARIGU ALIAS KARIGU M’MUGAMBI NGITI.....1ST PLAINTIFF
JOHN MWATHI M’MUGAMBI.....2ND PLAINTIFF
JEREMIAH MURAUKO MUGAMBI.....3RD PLAINTIFF
BEATRICE GACUNKU.....4TH PLAINTIFF
DAVID MUTUGI KARIGU.....5TH PLAINTIFF
JOSPHAT NJERU KIAAYA.....6TH PLAINTIFF

VERSUS

SABERA GAKUNDI MWITHI.....1ST DEFENDANT
BEATRICE KATHAMBI.....2ND DEFENDANT
CHARITY KAINDI.....3RD DEFENDANT
VIRGINIA MUTHONI.....4TH DEFENDANT
JOHN KIMATHI.....5TH DEFENDANT
ALICE KARIMI.....6TH DEFENDANT
JAMES MUTUGI MWITHI.....7TH DEFENDANT
GERALD MUGAMBI.....8TH DEFENDANT
JAMES MWENDA MWITHI alias JOHN KIMATHI.....9TH DEFENDANT
STANLEY MURITHI NYAMU.....10TH DEFENDANT
MARY WAMBUI MWABI.....11TH DEFENDANT

RULING

1. By a Notice of Motion application dated 27th August, 2021, the Defendants/Applicants pray for orders:-

a) Spent

b) That this Honourable court be pleased to make an order that the Police Officer Commanding Tunyai Police Station do provide security to the Applicants when implementing this court's decree of the Judgment issued herein on **30th July, 2019**.

c) That the costs of this application be provided for.

2. The application which is supported by the affidavit of Sabera Gakundi Mwithi, the 1st Applicant is premised on the grounds that:

(a) This Honourable Court pronounced Judgment on **25th May, 2021**, wherein it reinstated its Judgment of **30th July, 2019** to the effect that the Applicants do hold the parcel THARAKA/TUNYAI "A"/390 in common in equal shares.

(b) The Applicants wish to sub-divide the land and allocate the resultant sub-divisions to those entitled.

(c) The Respondents have on many occasions threatened to attack the Applicants if they attempted to sub-divide the land.

(d) That it has therefore become imperative that the Applicants be provided with security to carry out the exercise.

3. The application was served upon the Respondents but they have not filed a response thereto, though their advocate was allowed to submit on points of law.

4. I have considered the application. According to the Applicants, their attempts to bring a surveyor to sub-divide the suit land pursuant to the Judgment and decree of this court has met with obstruction and threats from the Respondents. The Applicants aver that it is only fair that they be given security when effecting the sub divisions to avoid any physical confrontation.

5. Given that the Applicants have a Judgment and decree in their favour which has not been set aside, reviewed or stayed, I believe that it is only fair and just to allow the application so that security is provided when the decree of court is being implemented. In the circumstances, I am satisfied that the application dated **27th August, 2021** is merited and the same is allowed.

6. I make no order as to costs.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 15TH DAY OF DECEMBER, 2021 IN THE PRESENCE OF:

CA: NDEGWA

MS. KAJURI FOR PLAINTIFFS/APPLICANTS

N/A FOR DEFENDANTS/RESPONDENTS

C. K. YANO,

JUDGE.