

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI

HCC NO. 1 OF 2007 (OS)

IN THE MATTER OF SECTION 17 OF MARRIED WOMEN'S PROPERTY ACT

LWL.....APPLICANT

VERSUS

SANL.....RESPONDENT

RULING

1. Before me for determination is an exparte application dated 16th October 2018 but filed on 17th October 2018 pursuant to Order 51 rule 1 of the Civil Procedure Rules, Sections 3A, 34, and 98 of the Civil Procedure Act seeking orders that the Deputy Registrar be authorized to execute in favour of the defendant/applicant the transfer documents on behalf of the plaintiff/respondent in respect of L.R. Nos. [...] and [...] so as to give effect to the orders given by this court on 22nd January 2015 and issued on 6th February 2015 by consent of the parties.

2. The application is premised upon grounds in the face of it and affidavit in support sworn by the applicant on 16th October 2018. Basically, the application is anchored upon a judgment delivered by this court pursuant to a consent judgment mutually entered by both parties giving L.R. Nos. [...] and L.R. No. [...] to the applicant as part of his matrimonial property share.

3. Despite every effort by the applicant seeking the respondent's cooperation in executing necessary transfer forms to facilitate the transfer of ownership into the applicant's names, the respondent has been adamant and reluctant to do so hence the prayers before court.

4. There is no doubt that there is a court order entered pursuant to the parties mutually agreed consent. Court orders must be obeyed. There is no good reason given why the applicant cannot execute the necessary transfer forms to execute the judgment. Since 6th February 2015 there is no appeal pending hence the need for the applicant to enjoy fruits of his judgment.

5. Accordingly, this court has no reason not to allow the application herein which is merited hence the same is allowed with orders that:

(a) The respondent/plaintiff is hereby given 30 days to execute all necessary transfer forms in favour of the applicant in respect of L.R. parcel Nos. LR [...] and LR [...] in default the Deputy Registrar of the court to execute the same.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 3RD DAY OF JUNE, 2019.

J.N. ONYIEGO

(JUDGE)