



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**CIVIL APPEAL NO 6 OF 2016**

**(FORMERLY NAIROBI HC CIVIL APPEAL NO. 54 OF 2002)**

**NG'ANG'A NJOROGE.....APPELLANT**

**VERSUS**

**JANE WATIRI NJOROGE....RESPONDENT**

**R U L I N G**

1. This ruling concerns the **summons dated and filed on 09/02/2015** by which the Appellant in this appeal seeks three orders –

(a) That the District Surveyor, Murang'a County, be authorized to subdivide land parcel LR LOC 4/GAKUI/692.

(b) That the OCS Kandara Police Station be authorized to provide security to the District Surveyor during the exercise.

(c) That the Land Registrar, Murang'a County be directed "to execute the decree of this court issued on 17/10/2013".

2. I have read the supporting affidavit annexed to the application sworn by the Appellant as well as the replying affidavit sworn by the Respondent and filed on 06/11/2016. I have also perused the court record.

3. The appeal herein was against the decree of the lower court. By a judgement delivered on 17/09/2009 (Rawal, J) the appeal was allowed "in terms of grounds Nos 1, 2, 3, and 4 of the memorandum of appeal dated 2<sup>nd</sup> December 2002". In effect the decree of the lower court was set aside and an order was substituted therefor that the Appellant gets 2.5 acres out of land parcel LR LOC 4/GAKUI/692. A decree was subsequently issued by this court on 17/10/2013. On 23/07/2014 this court issued orders directing the OCS, Kandara Police Station to "provide security (to) the Land Registrar to execute the decree herein issued at Nairobi on 17<sup>th</sup> October 2013"; the court also directed the Land Registrar to execute the decree "in liaison with the OCS Kandara Police Station".

4. The Appellant has explained in his supporting affidavit that his present application was necessitated by the fact that the order of 23/07/2014 directed that security be provided to the Land Registrar, whereas the officer who requires security is the District surveyor, Murang'a County.

5. In her replying affidavit the Respondent opposes the application upon the basis that she has applied for review of the decree of this court. That application is the summons dated 11/05/2015 which the Respondent filed apparently in response to the Appellant's present application. On 22/11/2016 this court declined to hear the application before the Appellant's application.

6. This is an old matter that has festered between sister and brother for a long time. The Respondent applied for review of the decree of this court passed on 17/09/2009 nearly six years later on 12/09/2015, and then only as a reaction to the Appellant's present application. Litigation must be allowed to come to an end; in this case that event will be achieved only upon execution of the decree of this court passed on 17/09/2009 and issued on 17/10/2013.

7. In these circumstances I have no hesitation at all in allowing the summons dated 09/02/2015 as prayed with costs to the Applicant. It is so ordered.

**DATED AND SIGNED AT MURANG'A THIS 9<sup>TH</sup> DAY OF MARCH 2017**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT MURANGA THIS 10<sup>TH</sup> DAY OF MARCH 2017**