



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL SUIT NO. 12 OF 2012 (OS)**

**C A O.....PLAINTIFF**

**VERSUS**

**W B O.....DEFENDANT**

**RULING**

1. On 8<sup>th</sup> February 2015 I delivered a judgment where I ordered that the property that I had declared to be matrimonial property be shared equally between the plaintiff and the defendant.
2. The plaintiff has come back to court with an application dated 16<sup>th</sup> December 2015. She seeks orders that she be permitted to collect the income generated by the property the subject of the judgment of 8<sup>th</sup> February 2015. She expresses her frustration with having the judgment enforced.
3. There is a reply to the application by the defendant, and a rejoinder by the plaintiff.
4. The court herein made final orders on 8<sup>th</sup> February 2015. After apportioning the property as between the parties, the court granted them a timeline to facilitate implementation of the order, failing which the property was to be sold and the proceeds shared equally between them. The Deputy Registrar was to sign the necessary documents to give effect to the decree.
5. The application now before me seeks orders that are way out of what was sought in the suit. The court is effectively *functus officio*, so far as the subject of the suit is concerned. The only matters that the court can entertain with regard to the suit are post-judgment applications related to execution of the judgment. What is sought herein is far from that. It is a totally unrelated matter that can only be pursued in a fresh suit. .
6. I am unable to grant the orders sought for the reasons given above. The application dated 16<sup>th</sup> December 2015 is for dismissal and I hereby dismiss the same with costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 12<sup>TH</sup> DAY OF MAY, 2017.**

**W. MUSYOKA**

**JUDGE**