REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

CIVIL CASE NO. 101 of 2010 (OS)

M W W……PLAINTIFF

VERSUS

S W M..……DEFENDANT

JUDGMENT

By an Originating Summons dated 23rd August, 2010 and filed in this Court **under Order XXXVI** of the **Civil Procedure Rules** and **Section 17** of the **Married Women's Property Act, 1882,** the plaintiff sought for a declaration that the following properties hitherto registered in the defendant's name be declared as jointly owned between the plaintiff and the defendant in trust for themselves and for the benefit of their children:

1. **Title No. Nyeri/Naromoru/[...]**

2. **Title No. Nyeri/Naromoru/[...]**

3. **Title No. Nyeri/Naromoru/[...]**

4. **Title No. Nyeri/Lusoi/[...]**

5. **Title No. Nyeri/Lusoi/[...]**

At the time the suit was filed, the parties were husband and wife although they had both sought for dissolution of their marriage in a pre-existing divorce cause being the **Nyeri Chief Magistrates' Court Divorce Cause No. 2 of 2010** which was initiated by the plaintiff**.** Their wishes were granted when the marriage was subsequently dissolved on 24th November, 2010 on the strength of the cross-petition filed by the defendant**.**

Considering that the Originating Summons was filed before the dissolution of the marriage counsel for the defendant raised a preliminary point that the suit was premature. Counsel argued that as long as the parties were still bound by their marriage, an order for division of the matrimonial property could not be granted. For reasons, I gave in the ruling which I delivered on 15th July, 2016 the preliminary objection was overruled; the net result of that ruling was that in marriage, either spouse can take out proceedings against the other for determination of not only their interest in property acquired in the course of their marriage but it can also distribute the properties between them. That issue is now water under the bridge and what the court is concerned with at the moment is whether there are any merits in the plaintiff's suit.

In her evidence, the plaintiff testified that she got married to the defendant in 1966 initially and the

Kikuyu customs but later, and more particularly on 8th April, 2000, the marriage was converted into a statutory marriage and solemnised in church. At the early stages of their marriage, the plaintiff and the defendant lived in Nairobi; they later moved to Karatina and then to Naromoru where they finally settled and established their matrimonial home. Their marriage was blessed with seven children who lived with the plaintiff at Naromoru while the defendant worked in Nairobi.

According to the plaintiff, she and the defendant spent a good part of their married life separately; as noted the defendant worked in Nairobi while she lived in Naromoru. The plaintiff worked on what I suppose was the family farm where she cultivated wheat and kept dairy cattle. She also operated a passenger transport business using their motor vehicle registration no. […]. After this vehicle was sold, she ran a hardware at Nanyuki town. It was her evidence that all the properties the defendant has, including the farm and the motor vehicle were acquired after their marriage. Of the immovable properties, **Title No. Nyeri/Naromoru/[…]** was the first one they acquired. The defendant purchased it from one P N for around **Kshs 10,000/=.** Sometimes in the year 1988 they acquired the property known as **Title No. Nyeri/Naromoru/[…] at Kshs 20,000/=** out of which she paid the sum of Kshs 15,000/= while the defendant paid Kshs 5,000/= only. This is where they moved in the year 2000 and constructed a residential house. It was her evidence that she contributed to the construction of this house through the proceeds from her farming business. Subsequently, they both acquired land parcels **Title No. Nyeri/Naromoru/[…]**, which was purchased in an auction for Kshs 20,000/=; the plaintiff paid Kshs 15,000/= and her husband paid the balance; As for **Title No. Nyeri/Lusoi/[…]** and **Title No. Nyeri/Lusoi/[…]**, she personally paid the sum of Kshs 6000/= for these two latter parcels. She testified that she had no problem in all these parcels being registered in her husband's name because she did not anticipate that they were going to break up at any one time.

As at the time she testified on 24th October, 2016 they had been separated for about 10 years. It was her case that since contributed to the acquisition of the properties, she wanted it to be shared equally between herself and the defendant though in her own pleadings she prayed for joint ownership of the properties.

Despite the dissolution of their marriage, the defendant still regarded the plaintiff as his wife in his testimony and although they lived separately, he had no objection to the plaintiff constructing a house on any of his properties. He admitted that they married in 1966 and by then he was a storekeeper at [particulars withheld] company where he had been employed in 1965. Together with his wife they lived in Nairobi until 1975. As far as the acquisition of his property is concerned, he testified that in 1974 he purchased **Title No. Nyeri/Naromoru/[…]** from his aunt, P N for Kshs 18,000/= apparently after she was unable to settle a loan due to settlement fund trustees. The original extent of the land was 30 acres and at one point its title was changed to **Title No. Nyeri/Naromoru/[…];** however, when he later sold four acres of this land, it was registered as **Title No. Nyeri/Naromoru/[…]**. It is on this farm that he initially settled his family. It was his evidence that the plaintiff did not contribute anything towards the acquisition of this farm. Instead, apart from buying the farm from his own sources, he also used to give his wife money through an account he had opened for her at Standard Chartered bank at Nyeri.

With regard to **Title No. Nyeri/Naromoru/[…],** the defendant testified that he purchased it from one Johnson Ngatia Karanja in 1975 at Kshs 18,000/=. He also produced receipts to show that he bought **Title No. Nyeri/Naromoru/[…]** in an auction at Kshs 125,000/=. As for parcels registered as **Title Nos. Nyeri/Lusoi/[…]** and **[…]**, each of which measures 2 acres, he bought them from one Okoth, again without any contribution from his wife.

In 1999, the defendant shifted his family from **Title No. Nyeri/Naromoru/[…] to Title No. Nyeri/Naromoru/[…]** and it is where he is settled as of to date.

While working in Nairobi, so he testified, he would visit his family every weekend but travel back to Nairobi the following Monday. He had dairy cows on his farm and he had employed farmworkers to look after them. His children were in boarding schools but they stayed on the farm with the plaintiff whenever they closed for school holidays. In January, 2005, he stopped working and came back to Naromoru to live with his family. Before then and in particular in 1985, he conducted a customary marriage with the plaintiff and in 2000 this marriage was converted into a statutory marriage under the **African Christian**

Marriage and Divorce Act (cap151). However, in August 2005, the plaintiff deserted the matrimonial home and went to live with her brother; subsequently she filed a divorce cause which, as noted, was concluded and the marriage dissolved on 24th of November 2010.

In his answers to questions put to him in cross-examination, the defendant admitted that although he had employed workers on the farm, the overall responsibility of managing it fell on the plaintiff and he was satisfied that she delivered on this responsibility well apart from taking care of the children. She cultivated wheat and also grew french beans. According to him, she earned what he considered "a lot of money" from farming but that she never shared it with him. It was his evidence that she spent all the proceeds, on top of what he used to give her, on herself.

A casual consideration of the evidence of both the plaintiff and the defendant reveals that some of the facts that one would consider material to the resolution of the dispute between them are not in contention; for instance, it is common ground that they were a married couple between the 1966 and November, 2010; it is also common ground that all the properties which the defendant acquired and which are the subject of this suit, were acquired after their marriage and before its dissolution. The primary contention is whether the plaintiff is entitled to an equal share of the properties, now that the marriage coverture is broken. Related to this question is the contention whether the plaintiff made any contribution towards acquisition of these properties and if so, the extent and the nature of her contribution. Further it is also equally important to consider whether the plaintiff would still be entitled to a share of the property acquired in the course of the marriage coverture, with or without any contribution, of whatever nature or extent.

The current law on these questions is of course the Constitution and the **Matrimonial Property Act, 2013** which came into force on 16th January, 2014; however, this latter law is of little help here because this suit was instituted long before the date of commencement of this Act and none of its provisions makes any allowance for its retrospective application. The predecessor to this Act, the **Married Women's Property Act, 1882,** is no doubt the law applicable to the circumstances to this case. For avoidance of doubt, the plaintiff herself invoked **section 17** of this Act in her originating summons as the specific provision in that Act upon which her claim is founded. That section provides as follows:

> ***In any question between husband and wife as to the title to or to possession of property, either party, or any such bank, corporation, company, public body, or society as aforesaid in whose books any stocks, funds, or shares of either party are standing, may apply by summons or otherwise in a summary way to any judge of the High- Court of Justice in England or in Ireland, according as such property is in England or Ireland, or (at the option of the applicant irrespectively of the value of the property in dispute) in England to the judge of the county court of the district, or in Ireland to the chairman of the civil bill court of the division in which either party resides, and the judge of the High Court of Justice or of the county court, or the chairman of the civil bill court (as the case may be) may make such order with respect to the property in dispute, and as to the costs of and consequent on the application as he thinks fit, or may direct such application to stand over from time to time, and any inquiry touching the matters in question to be made in such manner as he shall think fit : Provided always, that any order of a judge of the High Court of Justice to be made under the provisions of this section shall be subject to appeal in the same way as an order made by the same judge in a suit pending or on an equitable plaint in the said court would be ; and any order of a county or civil bill court under the provisions of this section shall be subject to appeal in the same way as any other order made by the same court would be, and all proceedings in a county court or civil bill court under this section in which, by reason of the value of the property in dispute, such court would not have had jurisdiction if this Act or the Married Women's Property Act, 1870, had not passed, may, at the option of the defendant or respondent to such proceedings, be removed as of right into the High Court of Justice in England or Ireland (as the case may be) by writ of certiorari or otherwise as may be prescribed by any rule of such High Court ; but any order made or act done in the course of such proceedings prior to such removal shall be valid, unless order shall be made to the contrary by such High Court : Provided also, that the judge of the High Court of Justice or of the county court, or the chairman of the civil bill court, if either party so require,***

may hear any such application in his private room : Provided also, that any such bank, corporation, company, public body, or society as aforesaid, shall, in the matter of any such application for the purposes of costs or otherwise, be treated as a stakeholder only.

Until the 16th January, 2014, the **Married Women's Property Act, 1882**, applied in Kenya by dint of **section 3** of the **Judicature Act, (Cap. 8) whose subsection (1) provided as follows:**

3. Mode of exercise of jurisdiction

(1) The jurisdiction of the High Court, the Court of Appeal and of all subordinate courts shall be exercised in conformity with—

(a) the Constitution;

(b) subject thereto, all other written laws, including the Acts of Parliament of the United Kingdom cited in Part I of the Schedule to this Act, modified in accordance with Part II of that Schedule;

(c) subject thereto and so far as those written laws do not extend or apply, the substance of the common law, the doctrines of equity and the statutes of general application in force in England on the 12th August, 1897, and the procedure and practice observed in courts of justice in England at that date:

Provided that the said common law, doctrines of equity and statutes of general application shall apply so far only as the circumstances of Kenya and its inhabitants permit and subject to such qualifications as those circumstances may render necessary.

The Act was one of those statutes which applied in this country as statutes of general application in force in England on the 12th August, 1897. Under the proviso to **section 3(1)** of the Judicature Act, these statutes were subject to the caveat that they only applied with such qualifications as local circumstances would apply; that means, among other things, a party need have overly been bothered by such descriptions as *"judge of the High- Court of Justice in England or in Ireland" or "the judge of the county court of the district, or in Ireland to the chairman of the civil bill court of the division in which either party resides"* when mulling over where to file or before whom to file the originating summons. For our purposes, it was sufficient that if there was any question between husband and wife as to the title to or to possession of property, either of them could lodge an originating summons in the High Court which ordinarily was and is still presided by a judge who would determine the questions and make an appropriate order.

Nevertheless, as much as the **Married Women's Property Act, 1882** only applied as the circumstances of Kenya and its people permitted and was also subject to such qualifications as those circumstances rendered necessary, the English decisions interpreting the provisions of that Act, in particular **section 17** of the Act, had considerable influence on the local decisions on this issue whenever it arose. The precedent value of the English decisions on interpretation of this Act could not be ignored for the simple reason that this was an English Act whose application extended to this country in the form in which it was enacted by the United Kingdom legislature; subject to the qualifications that may have been informed by our own local and peculiar circumstances, it is difficult to imagine how our own perspective of this law could have been diametrically opposite to that of its own authors.

In **Nyeri High Court Civil Case No. 15 of 2014, Mary Wanjiru Gichora versus Titus Karanja Gichora** where this issue came to the fore, I discussed, relatively at length, the approach our courts have given to the interpretation and application of **section 17** of the **Married Women's Property Act, 1882** before it ceased to operate on 16th January, 2014 when the Matrimonial Property Act, 2013 came into force. At the risk of repeating myself, I can do no better than reproduce here my thoughts as expressed in my judgment in that case.

In my humble view, the English courts interpreted **section 17** of the Act to mean that whenever the court was called upon to divide property between spouses, the judge had a wide power to do what he thought was fair and just under the circumstances. Sir Raymond Evershed made reference to this notion in **Rimmer versus Rimmer (1952) ALL E ER 863** where he cited with approval a passage from the judgment in **Newgrosh versus Newgrosh** (unreported); in that case Bucknil L.J., said of **section 17** as follows:

> ***"That section 17 gives the judge a wide power to do what he thinks under the circumstances is fair and just. I do not think it entitles him to make an order which is contrary to any well-established principle of law, but subject to that, I should have thought that disputes between husband and wife as to who owns property which at one time at any rate, they have been using in common are disputes which may very well be dealt with by the principle which has been described as "palm tree justice". I understand that to be justice which makes orders which appear to be fair and just in the special circumstances of the case".***

In resolving this question, our courts appear to have followed this principle of being "fair and just" which, in my humble view, informed a string of decisions that embraced the division of property between the spouses to the extent of their respective contribution in its acquisition. In those decisions, the courts did not apply a general principle of equality in the division of property in dispute but, just like in England, they acknowledged the peculiar circumstances of each particular case. Our court's thinking on this question was best captured in **Echaria versus Echaria EALR (2007) 2 EA 139** where the Court restated the position as follows:

> ***"In all cases involving disputes between husband and wife over beneficial interest in the property acquired during marriage which have come to this court, the court has invariably given the wife an equal share. However, a study of each of these cases shows that the decision in each case was not as a result of the application of any general principle of equality of division. Rather, in each case the court appreciated that for the wife to be entitled to a share of the property registered in the name of the husband, she had to prove contribution towards the acquisition of the property. The court considered the peculiar circumstances of each case and independently assessed the wife's contribution as equal to that of the husband." (See page 150).***

In coming to this conclusion, the court considered its earlier decisions in **Essa versus Essa (1995) LL 384 (CAK), Nderitu versus Nderitu, Civil Appeal No. 203 of 1997 (UR) and Kamore versus Kamore (2001) 1 EA 81**. Other decisions which the Court considered along the same lines were **Muthembwa versus Muthembwa (2001) LLR 3496(CAK)** and **Mereka versus Mereka Civil Appeal No. 236 of 2001 (UR).**

The Court in **Echaria versus Echaria (supra)** discounted the notion that a wife's non-monetary contribution could be taken into account when considering the extent of her contribution towards acquisition of the matrimonial property. In taking this direction, the learned judges in the **Echaria case** differed with their brothers in **Kivuitu versus Kivuitu 2(KAR) 241** and in **Nderitu versus Nderitu** (supra); in the Kivuitu case Omolo Ag. J.A., (as he then was) delivered the leading judgment and held, *inter alia*, that even if he had found as a fact that the wife had not made any monetary contribution towards the purchase of the matrimonial home, he would have gone further to assess her non-monetary contribution as a wife and put a value on it. According to the learned judge, it would be extremely cruel to the wife in the Kivuitu case and to other women in her position if all the court has to consider is the financial contribution before allocating them any share in the matrimonial property.

Justice Omolo's reasoning was adopted by Kwach, J.A. (as he then was) in **Nderitu versus Nderitu (supra)** in which he held that a wife's non-monetary contribution ought to be taken into account. The learned judge held that a wife's contribution and more particularly a Kenyan African wife, will, more often than not, take the form of a backup service on the domestic front rather than a direct financial contribution.

The learned judges in **Echaria versus Echaria** thought that although Omolo's and Kwach's idea of non-

monetary contribution was noble and informed by a sense of justice to women, it was contrary to the law on proprietary rights. The position followed by the judges in **Echaria versus Echaria** appear to be similar to that adopted by Bucknil LJ in **Newgrosh versus Newgrosh** (supra) that much as section 17 of the Married Women's Property Act gave the judge a wide berth to do what he thought is fair and just under the circumstances, it did not thereby entitle him to make an order which is contrary to any well-established principle of law on proprietary interests or ownership of property.

The Court noted that although there were deficiencies in the law they could only be cured by a legislative Act rather than by any judicial innovation; in fact, so the court held, the law in England had been changed fundamentally several years back and expressly given proprietary rights to spouses in a marital union. The court revisited its decision in **Kamore versus Kamore** (supra) where it had recommended legislative action be taken to mitigate the gaps in the law on the matrimonial property. In that case the court had said:-

> ***"We would like to add our observations, that is to say, that until such a time as some law is enacted, as indeed it was enacted in England as a result of the decision in Pettit versus Pettit and Gissing versus Gissing to give proprietary rights to spouses as distinct from registered rights, section 17 of the Act must be given the same interpretation as the law Lords did in those two cases. Such laws should be enacted to cater for the conditions and circumstances in Kenya. In England the Matrimonial Homes Act of 1967 was enacted which was later replaced by the Matrimonial Proceedings and Property Act of 1970. The Matrimonial Causes Act of 1973 also made a difference."***

The court decried that seven years after it had made its recommendations in **Kamore versus Kamore** Parliament had not taken cue and enacted the appropriate law; it expressed its disappointment in the following terms:

> ***"It is now about seven years since this court expressed itself in Kamore versus Kamore, but there is no sign, so far, that Parliament has any intention of enacting the necessary legislation on matrimonial property. It is indeed a sad commentary on our Law Reform agenda to keep the country shackled to a 125-year-old foreign legislation which the mother country found wanting more than 30 years ago! In enacting the 1967, 1970 and 1973 Acts, Britain brought justice to the shattered matrimonial home. Surely our Kenyan spouses are not the products of a lesser God and so should have their fate decided on precedents set by the House of Lords which are at best of persuasive value! Those precedents, as shown above, are of little value in Britain itself and we think the British Parliament was simply moving in tandem with the times."***

The people of Kenya took it upon themselves to resolve this problem; in the Constitution of Kenya which they resoundingly passed and was subsequently promulgated in the year 2010, they clearly and unambiguously expressed themselves on this question and stated that parties to a marriage are entitled to equal rights at the time of marriage, during the marriage and at the dissolution of marriage. **(See article 45(3) thereof).**

Not to be left behind, Parliament took cue and enacted **the Matrimonial Property Act, 2013,** which in a sense signified that the cries from the courts had reached the august house and that we need not weep anymore; at last, we now have a written law governing spouses' rights to matrimonial property.

T**he Matrimonial Property Act, 2013** is, of course, not applicable to the present case but it is relevant, at most, to demonstrate the limitations inherent in its predecessor, and that it is because of these limitations that it had to be enacted. But with all its limitations, it is the **Married Women's Property Act, 1882** we have to look unto in resolving the present dispute. Luckily, it is not the only law, lurking in its shadow is the Constitution of Kenya, 2010 which has to be applied for the simple reason that it came into force before this suit was lodged.

Going back to the evidence on record, I found the defendant to be quite candid in his evidence on how he acquired the properties in issue. He gave a detailed account, with supporting documents to boot, of when

he purchased them, from whom he purchased the properties, how much he paid for each of the properties and even the circumstances under which he purchased those properties. More importantly, they are all registered in his name as the absolute owner. The plaintiff on the other hand, did not provide any evidence of her contribution towards the purchase of any of these properties. Going by the decisions in **Pettit versus Pettit (supra) Rimmer versus Rimmer (supra), Re Rodgers Question (supra) Allen versus Allen versus Allen (supra)** and our very own **Echaria versus Echaria (supra**), once property is registered in the name of one spouse then in the absence of any evidence of trust or direct contribution towards the purchase or development by the other spouse, it is presumed that the intention of the parties from the very beginning was to have the properties vested in the registered proprietor absolutely.

However, it has been noted that the strict application of the law as it then existed and particularly the need to resist the temptation of divesting a spouse of his or her proprietary rights contrary to established principles of property ownership in resolving property disputes between spouses visited injustice on the other spouse who had all along presumed that he or she had a stake in the family property though it may have been registered in the name of one spouse only. And such presumption could not and cannot be faulted because when spouses genuinely enter into a marital union, none of them anticipates that at one point in future they will have to part ways and therefore they have to document or formalise their interest in every asset they acquire in the marriage coverture. The United Kingdom's 1967, 1970 and 1973 Acts which the Court of Appeal referred to in **Kamore versus Kamore** were meant to mitigate what must have been unfair and unjust consequences of application of the law on property rights vis-à-vis the rights of spouses to matrimonial property.

With the promulgation of the Constitution of Kenya, 2010 whose **article 45 (3)** specifically addresses spouses' rights, at the time of marriage, during the marriage and at the dissolution of marriage we certainly cannot continue to interpret and apply **section 17** of the **Married Women Property Act** as if this particular article does not exist. Everything, including **Matrimonial Property Act, 2013** must be considered from its perspective. Perhaps for better understanding I need to reproduce it here; it says:

> ***45. (1)…***
>
> ***(2)…***
>
> ***(3) Parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage.***
>
> ***4…***

It is important to note that the article recognises equal rather than equitable rights. Not that equitable rights cannot be taken into account when occasion so demands, but a plain reading of this article shows that equal rights would take precedence in the event of any competing arguments on which of the available rights should apply in any particular situation.

As noted earlier, my evaluation of the evidence presented by the parties has led me to the conclusion that the defendant is the absolute proprietor of the properties in issue. But the same evidence also shows that all these properties were acquired during the marriage coverture. For almost her entire life with the defendant, which is no less than 35 years, the plaintiff took care of the property and managed the defendant's home while the defendant worked in Nairobi. The defendant himself was quite categorical that the plaintiff cared for his children, who are now grown up and she managed his property well.

As much as these properties were registered in the defendant's name as their absolute owner, I do not think the defendant's wife can walk away empty-handed as if she was nothing more than the plaintiff's property manager. She had as much stake in the properties as she held in the institution of marriage itself. Her contribution towards the acquisition of these properties may not have been direct or tangible but, as I have said elsewhere her contribution in the nature of the tasks she was engaged in is no less valuable than the financial contribution made by the defendant. Her contribution, not necessarily towards the acquisition of the properties but in keeping the family together, caring for the children, managing the

home and generally taking care of the defendant's properties are tasks which cannot be trivialised; in my humble view, they are just as important as any amount of financial or monetary contribution in the acquisition of matrimonial property. To me it is in this spirit that **article 45(3)** of the Constitution emphasises that parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage. The rights the Constitution refers to here would, as a matter of course, include property rights. I am therefore persuaded that the plaintiff has made out a case for equal distribution of all those properties which the defendant acquired in the course of his marriage with plaintiff. In this regard, I follow the decision of my learned brother **Nairobi High Court Civil Case No. 43 of 2009 (OS), MWM versus JPM** where case Kimaru, J gave the applicant, who was the wife in spousal dispute, 50% of the properties acquired during the marriage coverture but which were registered in the husband's name. In arriving at this decision, the learned judge applied **article 45 (3)** of the **Constitution** which I have referred to above and **article 27(1)** of the **Constitution** that guarantees equality before the law; under this article, every person is guaranteed the right to equal protection and equal benefit before the law. I will also adopt the decision of Obaga, J in **Kitale High Court Civil Suit No. 86 of 2012** between **JAO versus NA** where though he applied the Court of Appeal decision in **Peter Mburu Echaria versus Priscillah Echaria (supra),** amongst other decisions, the learned judge awarded the applicant wife an equal share of the property acquired during her marriage to the respondent. The learned judge also invoked the international conventions such as the **article 16 (1) (h)** of the **Convention on the Elimination of All Forms of Discrimination against Women**; **article 16 (1) of the Universal Declaration of Human Rights**; and **article 7(d) of the Protocol to the African Charter on Human and People's Rights on the Rights of Women; he** held that equal sharing of matrimonial property whenever occasion arises is the way to go.

I would, in the final analysis have ordered that the properties be shared equally between the plaintiff and the defendant but the only prayer I find in the plaintiff's summons is couched in the following terms:

> ***That it is only fair that the properties be registered jointly in the name of the plaintiff and I and the same be declared to be jointly owned by the defendant and I in trust for ourselves and the children.***

Except for the declaration of a trust, I opt to give the plaintiff nothing more or less that what she has asked for. I would therefore allow her suit and decree as follows:

1. S W M and **M W W** are hereby declared to be absolute joint proprietors of the following properties:

(i) Title No. Nyeri/Naromoru/[...]

(ii) Title No. Nyeri/Naromoru/[...]

(iii) Title No. Nyeri/Naromoru/[...]

(iv) Title No. Nyeri/Lusoi/[...]

(v) Title No. Nyeri/Lusoi/[...]

2. The registration of **S W M** as the absolute proprietor of the following properties is hereby cancelled:

(i) Title No. Nyeri/Naromoru/[...]

(ii) Title No. Nyeri/Naromoru/[...]

(iii) Title No. Nyeri/Naromoru/[...]

(iv) Title No. Nyeri/Lusoi/[...]

(v) Title No. Nyeri/Lusoi/[...]

3. S W M and **M W W** shall be registered as the joint absolute proprietors of the following properties:

(i) Title No. Nyeri/Naromoru/[...]

(ii) Title No. Nyeri/Naromoru/[...]

(iii) Title No. Nyeri/Naromoru/[...]

(iv) Title No. Nyeri/Lusoi/[...]

(v) Title No. Nyeri/Lusoi/[...]

4. The District Land Registrar, Nyeri District is hereby ordered to rectify the respective registers and effect orders (2) and (3) above.

5. Parties shall bear thereon respective costs.

Signed, dated and delivered in open court this 12th May, 2017

Ngaah Jairus

JUDGE