



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 61 OF 2013(OS)

IN THE MATTER OF SECTION MARRIED WOMEN PROPERTY ACT OF 1882

AND

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

L N N APPLICANT

V E R S U S

P M M RESPONDENT

RULING

1. The petitioner herein moved the court by way of an Originating Summons dated 9th October 2013 seeking division of matrimonial property listed in the application. It was pleaded that the parties had solemnized marriage under statute in 1996. They thereafter acquired property together being LR. No. *[particulars withheld]* Embakasi near APTC, motor vehicles and household goods.
2. Contemporaneously with the application, the petitioner filed a summons in chambers of even date seeking preservation of LR No. *[particulars withheld]* (matrimonial home) and motor vehicle registration *[particulars withheld]*. The said application is grounded on the facts set out in the affidavit sworn by the applicant in support of the Originating Summons.
3. When the summons in chambers was placed before me on 11th October 2013 I directed that the same be served on the respondent for *inter partes* hearing on 7th November 2013.
4. There is an affidavit of service on record sworn on 15th October 2013 and filed herein on 31st October 2013 indicating that the application was indeed served on the respondent on 14th October 2013.
5. The matter was not heard on 7th November 2013 for the same was not listed on that date. It was eventually placed before me on 24th July 2014. Counsel for both sides attended court on that date, when I directed that the application dated 9th October 2013 be disposed of by way of written submissions.
6. The applicant filed her written submissions on 9th October 2014. The respondent did not file written submissions. He did not file a replying affidavit either. The application dated 9th October 2013 is therefore not opposed.

7. I have perused the record and I am satisfied that the parties contracted a marriage on 7th December 1996. I have noted that the motor vehicle in question *[particulars withheld]* was acquired thereafter, and so was the property LR No. *[particulars withheld]*. Whether the petitioner contributed to the acquisition of both assets is a matter for the full hearing.

8. The Chamber Summons dated 9th October 2013 is allowed as prayed. The applicant shall have costs of the application.

DATED, SIGNED and DELIVERED at NAIROBI this 10TH DAY OF JULY, 2015.

W. MUSYOKA

JUDGE

In the presence of Mr. Amalemba for Ms. Njagi advocate for the Applicant.

No appearance for the Respondent.