



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL APPEAL NUMBER 714 OF 2006

MARGARET W OBIERO. APPELLANT

VERSUSa

PURITY WANJIKU KIMANI. RESPONDENT

R U L I N G

The Application before the court for determination is one dated 7th July, 2015. The same was brought by way of a Notice of Motion Under Sections 1A, 1B of the Civil Procedure Act and order 14 Rules 5 and 7 of the Civil Procedure Rules.

The Applicant seeks for the unconditional release of the following documents: -

- a. **Lease agreement dated 13th November, 1998 for plot Number 11 Komarock East**
- b. **Letter of Allotment**
- c. **Receipts**
- d. **Letter from Nairobi City Council addressed to the Respondent's Advocates.**

And the costs of the Application.

The Application is premised upon the grounds set out on the body of the same and it is supported by the affidavit of **SAMUEL MWANIKI ADVOCATE**.

The Appeal herein originated from the Judgment of the sub-ordinate court delivered on the 19th September, 2006 by Hon. Ms Muketi. The Defendant filed the Appeal against the said judgment which appeal was heard by Hon. Justice J. L. Onguto and a judgment delivered on the 22nd September, 2014.

During the hearing of the primary suit the Respondent produced the documents that she is seeking to have released. The same are set out on the body of the Application (see supra).

They are still being held by the court and it's only fair that they be released to the owner as they are proof of ownership of Plot No. 11 Komarock, which was the subject matter of the proceedings both in the lower court and the Appeal.

It is now over a year since the judgment was delivered in the Appeal and the Appellant has not lodged any appeal against the said judgment.

Order 14 Rules 5 and 6 of the Civil Procedure Rules under which the Application is brought are clear on return of admitted documents. Any person whether a party to the suit or not desirous of receiving back any document produced by him in a suit and placed on record shall unless the document is impounded under Rule 4 be entitled to receive them back when the suit has been disposed off and where no Appeal has been filed.

The Application is not opposed. The Appellant's Advocates was served with the Application on the 27th July, 2015. Neither her lawyer nor herself attended court during the hearing of the Application and had not filed a replying Affidavit to the same.

In view of the foregoing, the Application dated 7th July, 2015 is hereby allowed as prayed with no orders as to costs.

Dated and delivered at Nairobi this 15th day of October, 2015.

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LUCY NJUGUNA

JUDGE

In the presence of

..... for the Appellant

.....for the Respondent