



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT MALINDI**

**CIVIL SUIT NO.17 OF 2013**

**DANIEL OJIJO OGONDA            )**

**GEORGE OMONDI OGOLO    ) ..... PLAINTIFFS**

**VRS**

**ARCHIE CHAMUGWANA MGONDAH VIANY ..... DEFENDANTS**

**RULING**

The application dated 18/9/2015 seeks to cancel the vesting order issued by this court in relation to Plot Number L. R. 22643 sub-division number 1796 section 111 Mainland North. The application also seeks an order to have the property re-auctioned. The main gist of the matter is that the property was sold at an auction on 30<sup>th</sup> August, 2014. The highest bidder, Lawrence Musyoki Isika failed to pay the required 25% of the bid price.

The title of the application is that it is brought under Order 71 rule (1) of the Civil Procedure Act. I believe it was meant to be Order 22 rule 71. That order allows for the reselling of the property if the purchaser fails to pay the auction amount within the agreed period. I have read the letter dated 18<sup>th</sup> August, 2015 from T. P. Top Auctioneers and it is indicated that the purchaser failed to pay the required amount.

I do find that the application dated 18/9/2015 is merited and is granted as prayed.

**Dated, signed and delivered at Malindi this 5<sup>th</sup> day of November, 2015.**

**SAID J. CHITEMBWE**

**JUDGE**