

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA

ELC CASE NO. 518 OF 2014

AINEAH NDOMBI.....PLAINTIFF/APPLICANT

VERSUS

SIMON LUKERE.....DEFENDANT/RESPONDENT

RULING

The application is dated 14th February 2020 and is brought under Section 3A of the Civil Procedure Act seeking the following orders;

1. That this honourable court be pleased to issue an order empowering the Deputy Registrar to sign/execute all the necessary transfer documents on behalf of Saimon Ikhevi Lukeri so as the applicant can acquire a portion of land measuring 4 acres out of land parcel Namirama/Bunyala/526.
2. That the cost of this application be in the cause.

It is grounded upon the affidavit of Ainea Wawire Ndombi and grounds that this honourable court made an order on the 20th day of March, 2019 that the plaintiff, Ainea Wawire Ndombi has acquired title to a portion measuring 4 acres out of land parcel Namirama/Bunyala/526 by operation of law, to wit, through adverse possession. That a portion of land measuring 4 acres out of land parcel Namirama/Bunyala/526 should be registered in the name of Ainea Wawire Ndombi. The defendant filed succession of the estate comprised in the above land which was finalized and he has refused to sign the necessary documents for him to be registered as the owner of land then in turn transfer to him his lawful portion of land. The defendant has refused transfer title to a portion measuring 4 acres out of land parcel known as Namirama/Bunyala/526 to the plaintiff.

This court has considered the application and the submissions therein. The application was served and the respondent failed to file any response. I have perused the court record and find that on the 20th March 2019 the court delivered judgement for the plaintiff and the court held as follows;

- 1. The plaintiff Ainea Wawire Ndombi has acquired title to a portion measuring 4 acres out of land parcel Namirama/Bunyala/526 by operation of law, to wit, through adverse possession.*
- 2. A portion measuring 4 acres out of land parcel Namirama/Bunyala/526 should be registered in the name of Ainea Wawire Ndombi. The defendant is to transfer title to a portion measuring 4 acres out of land parcel Namirama/Bunyala/526 to the plaintiff and in default the Deputy Registrar to sign the transfer documents.*
- 3. There will be no costs in this suit as the parties are relatives.*

I find that the orders prayed for in this application had already been granted on the 20th March 2019. Be that as it may I find this application is not opposed and I grant the same with no orders as to costs.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KAKAMEGA THIS 27TH OCTOBER 2020.

N.A. MATHEKA

JUDGE