



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

CIVIL SUIT NO.413 OF 1993

JOSEPH GATHERU KUNYIHA.....PLAINTIFF/APPLICANT

VERSUS

JOHNSON KIBAARA GACHEGUA

CHARITY GATHONI KIBAARA

MICHAEL GACHAGUAS KIBAARA.....DEFENDANTS/RESPONDENTS

RULING

1. The Notice of Motion is brought under the provisions of **Section 1(1), 3 and 3A** of the **Civil Procedure Act (2010)** and **Order 22 Rule 28(5)** of the **Civil Procedure Rules 2010**.
2. The Applicant seeks the following orders:

i) That the Defendants/Respondents be ordered to facilitate the implementation of the Decree dated 23rd March, 2000 by executing and supplying the Plaintiff/Applicant with such documents as are necessary to give effect to the Decree.

ii) That in default, the Deputy Registrar of this Honourable Court be authorised to execute such documents.

iii) The costs of this Application

3. The Application is premised on the grounds on the face of the Application and is supported by the affidavit made by **Joseph Gatheru Kunyiha**, the Applicant herein.
4. The Respondents though served were not in attendance at the hearing hereof, nor had they put in any response, therefore the application is uncontested.
5. The Decree was issued in the year 2000 and in order to implement the decree, the Applicant seeks from the Respondents the documents listed hereunder:

i) Original Title to NYANDARUA/MELANGINE/828

ii) Duly executed Land Control Board Forms.

iii) Mutation Forms

iv) Duly executed Transfer Instrument

v) Passport size photographs

vi) Copies of Identity Cards.

vii) PIN Certificates

6. It would appear from the submissions that the Respondents are unwilling to comply with the terms of the Decree which is to provide the Applicant with the above mentioned documents.
7. The Applicant seeks this court's intervention and that the Deputy Registrar be authorised to execute the relevant documents, should the Respondents fail to do so.
8. This court reiterates that the Application is uncontested and therefore there are no reasons advanced to challenge the application.
9. For those reasons, this court will allow the application and make the following orders:

i) The Respondents shall execute and provide the Applicant with all the requisite documents within fourteen (14) days from the date hereof.

ii) In default the Deputy Registrar is hereby authorised to execute all the documents related to the subject property

NYANDARUA/MELANGINE/828.

iii) To bring closure to this matter, I shall not make an award for costs, each party shall bear their own costs.

It is so ordered.

Dated, Signed and Delivered at Nakuru this 15th day of October, 2014.

A. MSHILA

JUDGE