



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
CIVIL SUIT NO. 77 OF 2004

DANIEL MUTHURI.....1ST PLAINTIFF

BENSON KINOTI.....2ND PLAINTIFF

VERSUS

M'IKIARA KARIGI.....DEFENDANT

JUDGMENT

The plaintiff in this case prayed for judgment against the defendant for:

(i) A declaration that the defendant holds land parcel No.2582, 2583 and 2584 in trust for the benefit of the plaintiffs to the extent of 7 acres to the 1st plaintiff and 2 acres to the 2nd plaintiff.

(ii) An order compelling the defendant to sub- divide land parcel No.ABOTHUGUCHI/KITHURINE/2582, 2583 AND 2584 and transfer 2 distinct portions of 7 acres and 2 acres to the 1st and 2nd plaintiffs respectively.

(iii) Costs of the suit.

(vi) Interests at court rates

(v) Any other relief.

On 30.4.2012 a consent in the following terms was adopted as an order of the Court:

“By consent the defendant to give 4 acres to Daniel Muthuri, 1st

plaintiff/Respondent. The 4 acres to be surveyed from where the 1st Plaintiff/Respondent is settled/developed(sic).

1st defendant to give further 4 acres to Johnson Mwenda, his son and also to give one (1) acre to Benson Kinoti which one(1) acre would be registered in the names of Benson Kinoti and his mother one Monica Kajuju Muchuka. The balance of the land to remain in the name of the defendant.

1st plaintiff and one Jushua Mwenda to share the surveyor's fees as well as the registration fees.

Each to bear its own costs in the application.”

On 4.7.2013, the Court adopted a further consent in the following terms:

“It is hereby agreed as follows:

- 1. In executing the survey in accordance with said consent the District Surveyor shall try and protect the houses of the parties.**
- 2. The defendant to surrender title deeds for L.R.Nos.ABOTHUGUCHI/KITHIRUNE/2582, 2583 and 2584 to the Land registrar, Imenti North District for amalgamation into one (1) parcel for purposes of sub-dividing the same as per the consent.**
- 3. All the cautions, restrictions and/or inhibitions registered against land parcel Nos. ABOTHUGUCHI/KITHIRUNE/ 2582, 2583 AND 2584 be lifted forthwith.**

This judgment confirms that the two consents have been adopted as orders of the Court. To facilitate the execution of the orders, the parties may be at liberty to use any other surveyor other than the District Surveyor if they so wish as long as the orders herein are properly executed.

I direct each party to bear its own costs in the suit which is hereby marked as settled.

Dated, Signed and delivered in Open Court at Meru on 4th July 2013 in the presence of:

Cc Daniel

Ringera for plaintiffs

Kiambi for defendants

P. M. NJOROGE

JUDGE