



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
(MILIMANI LAW COURTS)

CIVIL CASE 1640 OF 1980

PAUL NJAGI.....APPLICANT

VERSUS

MUTUGU KAGWAI)

PAUL CHEGE WAIKAMA).....RESPONDENTS

R U L I N G

In objecting to an application filed by Mr. Mwihia on behalf of the applicant seeking for several orders namely:-

- “(a) That the decree be amended to conform with the Judgment of this court;
- (b) That the annexed decree be approved as the decree of this court;
- (c) That the plaintiff be allowed to nominate his mother Raphaela Njeri Paul Njagi as the transferee of the suit land;
- (d) That the Deputy Registrar be authorized to sign the transfer documents to effect the registration of Raphaela Njeri Paul Njagi as legal absolute owner of the land title No.Loc.7/Ichagaki/1049.”

Mr. Ngatia for the Respondent has taken a preliminary point to the effect that the so called applicant in this matter has no locus standi in the suit. On checking the record Mr. Mwihia does conceded that he was acting under a mistake in that the application which would have placed the applicant as a party in this suit was never actually heard. At the end of it Mr. Mwihia applied to the court to withdraw the application.

Mr. Ngatia has objected to this cause on the ground that the application has been argued on the basis of preliminary objection and therefore and therefore the application must be dismissed. I agree with Mr. Ngatia. The application whether argued on a preliminary point or the whole application, the end result is that the application has been argued, fully canvassed and so the question of introducing it does not arise.

I hereby therefore uphold Mr. Ngatia on his preliminary point and dismiss the application.

Costs to the Respondent.

Order accordingly.

E. OWUOR

JUDGE

24/10/88:

Coram: Owuor, J

Mr. Ngatia for the 2nd Defendant/Respondent

Mr. Kapila for Mr. Mwhia for the applicant

Court clerk – Njehia

Court:

Ruling read in Chambers.

E. OWUOR

JUDGE