



REPUBLIC OF KENYA



**KENYA LAW**  
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**Muriuki v Mathenge (Environmental and Land Originating Summons  
245 of 2014) [2025] KEELC 5660 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5660 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYERI  
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS 245 OF 2014**

**JO OLOLA, J  
JULY 31, 2025**

**BETWEEN**

**FAITH WANJIKU MURIUKI ..... PLAINTIFF**

**AND**

**JOHNSON GITHOGORI MATHENGE ..... DEFENDANT**

**RULING**

1. By the Notice of Motion dated 4<sup>th</sup> October 2024, Faith Wanjiru Muriuki (the Plaintiff) prays for the following:
  1. Spent;
  2. That the Honourable Court be pleased to allow the rectification of the name of the Defendant in these proceedings and more specifically on the Judgment and Decree issued herein so as to read as Johnson Githongori Mathenge alias Githogori s/o Kibatha;
  3. That this Honourable Court be pleased to order the removal of the restriction that was placed to prevent dealings on the title number Kirimukuyu/Gachuiro/69 until the Nyeri Appeals Tribunal Case Number 24 of 2007 is finalized; and
  4. That the costs of the application be provided for.
2. The application is supported by two affidavits sworn by the Plaintiff and is premised on the grounds:
  - a. That this matter is concluded a Judgment having been made on 9<sup>th</sup> December, 2022 and a Decree issued on 7<sup>th</sup> February, 2023;
  - b. That at the time of filing of the suit, the Official Search conducted at the Lands Office did not show that the suit land was in the name of Johnson Githongori Mathenge;



- c. That after conclusion of the matter and upon presentation of the Decree at the Lands Office, it has transpired that the name Johnson Githongori Mathenge was inserted on the Green Card as Entry No. 2 made on 29<sup>th</sup> November, 2006 after the Defendant applied for change of name on the title;
  - d. That although the new name was entered on the Green Card, the requisite signature against the entry was never signed and the entry is not approved for lack of signature;
  - e. That there is need to amend or rectify the name of the Defendant to include an alias so that his name reads as Johnson Githongori Mathenge alias Githongori s/o Kibatha so that the decree can be given effect;
  - f. That it has also become apparent that a restriction had been placed on the title to prevent dealings with the land until Nyeri Tribunal Appeal Case No. 24 of 2007 is finalized;
  - g. That the Land Disputes Tribunal Act having been repealed by Section 31 of the Environment and Land Court No. 19 of 2011, and the Tribunal having been phased out, this is the Court with powers to remove the restriction; and
  - h. That no prejudice will be occasioned to the Defendant in granting the orders sought.
3. Despite service of the application, Johnson Githogori Mathenge (the Defendant) did not file any response thereto.
  4. By her application before the court, the Plaintiff prays for orders to rectify the judgment and the decree issued herein to read Johnson Githongori Mathenge alias Githogori S/o of Kibatha and not just Johnson Githongori Mathenge as presently depicted in both the judgment and decree. In addition, the Plaintiff has sought for an order for the removal of a restriction placed on the said parcel of land No. Kirimukuyu/Gachuiro/69 on account that the same no longer serves any useful purpose.
  5. Sections 99 and 100 of the [Civil Procedure Act](#), Cap 21 provides for the powers of the court to amend judgments, decrees or orders as follows:
    - “99. Amendment of judgments, decrees or orders, clerical or arithmetical mistakes in judgments, decrees or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the court either of its own motion or on the application of any of the parties.
    100. General power to amend.

The court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceedings in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings.”

6. In the matter herein, the Plaintiff avers that she has not been able to execute the judgment because of a difference in the name of the Defendant as registered on the suit property. It is the Plaintiff’s case that the Defendant herein is also known as Githogori S/o Kibatha but at the time when they filed the suit, the official search conducted at the Lands Registry brought out the name as Johnson Githongori Mathenge, the name the Plaintiff says was assumed by the Defendant after he was baptized. It is her case that the decree issued in her favour cannot be executed as the name Johnson Githongori Mathenge was inserted as entry No. 2 in the Register on 29<sup>th</sup> November, 2006 but the same had not been approved.



7. At it were, it was not in dispute that upon hearing both the Plaintiff and the Defendant, this court delivered a Judgment on 9<sup>th</sup> December 2022 where it ordered as follows:
  - a. The Defendant/Respondent is registered as proprietor of a clearly defined and marked portion of one point nine (1.9) acres of land out of land Title No. Kirimukuyu/Gachuiro/69 situated within Mathira District, in trust for the Plaintiff/Applicant;
  - b. The said trust is hereby determined with the direction that the said one point nine (1.9) acres be excised from the said L.R No. Kirimukuyu/Gachuiro/69 and be forthwith registered in the name of the Plaintiff/ Applicant.
  - c. The Defendant/Respondent is hereby directed to execute all the necessary documents for the sub-division and transfer of the said portion of land to the Plaintiff/Applicant within 45 days from today and in default the Deputy Registrar of this Court shall execute the same.
8. A perusal of the Certificate of Official search referred to by the Plaintiff dated 1<sup>st</sup> August 2011 indeed indicates that the name of the registered proprietor is Johnson Githongori Mathenge. From the Green Card of the suit property however, it is evident that the first entry dated 9<sup>th</sup> March, 1959 was in the name of Githogori S/o Kibatha while a second entry dated 29<sup>th</sup> November 2006 is in the name of Johnson Githongori Mathenge. The second entry has however not been approved or endorsed by any official signature. It is also evident from the said Green Card that a restriction was placed on the land to prevent any dealings with the same until Tribunal Appeal Case No. 24 of 2007 was finalized.
9. In her Supplementary Affidavit sworn on 21<sup>st</sup> November 2024, the Plaintiff depones that Johnson Githongori Mathenge and Githogori S/o Kibatha refer to one and the same person, being the Defendant herein and the eldest son of Mathenge Kibanya. The Defendant did not dispute or controvert that position.
10. In the circumstances herein, I am persuaded that in order to give effect to the judgment of the court it is proper that the name of the Defendant in both the Judgment and Decree be rectified.
11. I am equally persuaded that the purpose of the restriction was to prevent any dealing with the suit property while the Appeal was pending before the Land Disputes Tribunal. The Tribunals were abolished following the repeal of the Land Disputes Tribunal *Act No. 18 of 1990* by Section 31 of the *Environment and Land Court Act* No. 19 of 2011.
12. In the premises I allow the Notice of Motion dated 4<sup>th</sup> October, 2024 in terms of prayers 2 and 3 thereof.
13. There shall be no order as to costs.

**RULING DATED, SIGNED AND DELIVERED IN OPEN COURT AND VIRTUALLY AT MOMBASA THIS 31<sup>ST</sup> DAY OF JULY, 2025**

.....

**J.O. OLOLA**

**JUDGE**

In the presence of:

Ms. Firdaus Court Assistant.

Mr. Kimunya Advocate for the Plaintiff



No Appearance for the Defendant

