

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT CHUKA

CIVIL CASE NO. 1 OF 2018 (OS)

IN THE MATTER OF MATRIMONIAL PROPERTY ACT

NO. 49 OF 2013

TERESIAH NCHERI IRERI.....APPLICANT

VERSUS

ANDERSON IRERI NAZARINO.....RESPONDENT

RULING

1. This ruling is in respect of the Application dated 28th May 2025 seeking the following orders: -

- i. That the court be pleased to review the judgment of the honourable court delivered on 9th July 2024 in the following terms: -

a. Item No. 2 of the Judgment which read as
LR. KARINGANI/MUIRU/3592-TERESIAH
NCHERI IRERI be rectified to read
KARINGANI/MARIANI/3592- TERESIAH
NCHERI IRERI as per the consent dated 4th
October 2019.

b. That item no. 4 in the judgment which
read
LR. KARINGANI/MARIANI/4326 ANDERSON
NCHERI IRERI be reviewed and rectified to
read KARINGANI/MARIANI/4326-
ANDERSON IRERI NAZARINO as per the
consent between the parties dated 4th
October 2019.

ii. That costs be in the cause.

2. The Application is premised on the grounds set out
on the face of the motion and the supporting

affidavit of even date deposed by the Applicant. She averred that by the judgment delivered on 9th July 2024 the court ordered that the division of the matrimonial property of the Plaintiff and the Defendant was to be shared as per the consent of the parties dated 4th October 2019 which consent was duly executed by the parties.

3. She stated that comparing and contrasting the judgment delivered on 9th July 2024 and the consent by the parties executed on 4th October 2019 it is clear that there are errors apparent on the face of the record which requires review and correction as follows: - Item No. 2 of the Judgment which read as LR. KARINGANI/MUIRU/3592-TERESIAH NCHERI IRERI be rectified to read KARINGANI/MARIANI/3592- TERESIAH NCHERI IRERI as per the consent dated 4th October 2019 and

item no. 4 in the judgment which read LR. KARINGANI/MARIANI/4326 ANDERSON NCHERI IRERI be reviewed and rectified to read KARINGANI/MARIANI/4326- ANDERSON IRERI NAZARINO as per the consent between the parties dated 4th October 2019.

4. She stated that the inadvertent errors in the judgment require review and rectification to reflect the intentions of the parties as per the consent dated 4th October 2019. That no party stands to suffer prejudice by the orders being granted.

5. The Application came up for hearing on 4th November 2025 when both the Plaintiff and the Defendant confirmed to the court that the Application was aimed at rectifying the judgment to reflect the terms of the consent dated 4th October 2019. In particular, the Respondent's

Counsel submitted that they were not opposed to the Application.

6. The single issue for determination is whether the Court should exercise its powers of review under Order 45 of the Civil Procedure Rules, and correction under Sections 99 and 100 of the Civil Procedure Act, to correct the errors in the judgment delivered on 9th July, 2024.

7. Review of court decisions is governed by Order 45 Rule 1 of the Civil Procedure Rules, 2010, which provides that a party may apply for review on the following grounds: -

- i. Discovery of new and important matter;
- ii. Mistake or error apparent on the face of the record; or
- iii. Any other sufficient reason.

- iv. The application must also be made without unreasonable delay.
8. The guiding principle is that review may be granted where the Court deems it necessary to correct an apparent error or omission in its judgment. The error must be obvious on the face of the record and should not require extensive argument or interpretation to establish. It is not a valid basis for review that a different judge might have reached a different conclusion on the same material.
9. Section 99 of the Civil Procedure Act provides that:

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“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.”

10. Further, Section 100 provides that: -

“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.”

11. Sections 99 and 100 of the Civil Procedure Act give this Court wide latitude to correct clerical slips, typographical errors, and any defects in the record so long as the correction merely aligns the judgment with what was actually intended and

does not reopen the merits. The law is settled that review lies only for errors that are plain, obvious, and self-evident those that leap from the record without the need for argument, as affirmed in **National Bank of Kenya v Ndungu Njau [1997] eKLR**. Courts have repeatedly applied these provisions to rectify misdescriptions and omissions all underscoring that such amendments should be readily granted where they clarify, not change, the judgment and cause no prejudice to any party.

12. Turning to the present case, the amendments sought do not introduce new rights, alter substantive findings, or reopen the matter. They merely ensure that the judgment reflects terms of the consent between the parties dated 4th October 2017. The amendments sought are misdescription

to the parcels of land and the name of one party. Both parties confirmed the accuracy of the consent and it is therefore clear that no party will suffer prejudice from the amendments sought. To the contrary, failure to correct the errors would create confusion and potential injustice, particularly in execution or transmission of titles to the respective parties.

13. In light of the foregoing, I find that the errors complained of are clerical and typographical, falling within Section 99 to the extent that the errors also appear in the record, they may be corrected under Section 100. The corrections align the judgment with the Consent of 4th October 2019, which formed the very basis of the judgment.

14. Thus, the paragraph 106 of judgment dated 9th July, 2024 issued by my sister Gitari J. is reviewed and corrected as follows: -

Consequently, I find for the Applicant and allow this Originating Summons. I grant the following specific orders: -

- i. That a declaration is hereby issued that 50 % proportion of the properties listed below and held jointly by the Applicant and the Respondent or held by the Respondent as the case may be, is for the beneficial interest of the Applicant.

That is to say: -

The distribution is guided by the consent which the parties had entered dated 4th October 2019 and is as follows: -

- i. LR. KARINGANI/MUIRU/1243- Teresiah Ncheri Ileri
- ii. LR. KARINGANI/MARIANI/3592- Teresiah Ncheri Ileri. (in place of LR KARINGANI/MUIRU/3592)
- iii. PLOT NO. 19B KAAKWA MARKET- Teresiah Ncheri Ileri.
- iv. LR. KARINGANI/MARIANI/4326- Anderson Ileri Nazarino. (in place of Anderson Ncheri Ileri).
- v. LR. KARINGANI/MARIANI/2253- Anderson Ileri Nazarino.
- vi. PLOT NO. 46 KAAKWA MARKET- Anderson Ileri Nazarino.
- vii. PLOT NO. 29 KAAKWA MARKET- Anderson Ileri Nazarino.

- viii. PLOT NO. 28 KAAWA MARKET-
Anderson Ileri Nazarino.
- ix. MARKET STORE NO. 57 (S) and 59 (S)
Kaanwa Market - Anderson Ileri
Nazarino
- x. LR. KARINGANI/MARIANI/3452-
Christopher Maina Ileri.
- xi. LR. KARINGANI/MARIANI/5113- Loyford
Mawira Ileri.
- xii. LR MUTHAMBI/KARIMBA/1093- Loyford
Mawira Ileri.
- xiii. LR. KARINGANI/MARIANI/4598- Dolly
Kanana Ileri and Annliza Makena Ileri-
Jointly.

Each party to bear its own costs.

**Ruling delivered, dated and signed at Chuka this
26th day of November, 2025.**

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R. LAGAT-KORIR

JUDGE

**Ruling delivered in the presence of Mr. I.C Mugo
for the Applicant and Mr. Kijaru for the Defendant.
Muriuki (Court Assistant).**

ORIGINAL