

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ELC NO. E014 OF 2022

PETER **AKOMBE**
MOSAISI-----**1ST PLAINTIFF**
ANNAH MOKEIRA ROBERT-----
2ND PLAINTIFF

VERSUS

EUNICE NYANCHAMA AKOMBE-----**1ST**
DEFENDANT
JELIAH NYAKERARIO AKOMBE-----**2ND**
DEFENDANT

RULING

1. During the hearing of this matter, PW1, Peter Akombe Mosaisi, who was the 1st plaintiff, produced an original title deed for **Trans Nzoia/Kipsoen/1903** as **P. Exhibit No. (2)**.
2. By a judgment dated **18/1/2024**, the court dismissed the plaintiffs' suit, declared a constructive trust in favour of the 1st defendant over title No. **Trans Nzoia/Kipsoen/1903**, as a joint tenant and equal co-owner thereof, as a matrimonial home for both the 1st plaintiff and the 1st defendant, and the 2nd defendant and her siblings, to hold as their family home. The 1st

plaintiff was compelled to effect the registration of the 1st defendant as a joint tenant and a co-owner; in default, the Deputy Registrar of this court was to execute the transfer documents.

3. The court record shows that a decree was extracted, signed, and sealed on **5/2/2025**. Thereafter, in default of execution of the transfer documents, the Deputy Registrar of this court signed the documents.
4. The decree holders, by letters dated **19/11/2025**, sought the release of **P. Exhibit No. (2)** to them, still under the custody of the court, for presentation to the Land Registrar Kitale, through an intermediary, one Rose Annom, for further action.
5. By a letter dated **25/11/2025**, the Deputy Registrar of this court declined to release the same, because it was produced by the 1st plaintiff and not the defendants. The Deputy Registrar opted to place the file before this court for directions on **16/12/2025**.
6. Learned counsel for the decree holder, Senior Counsel Isaac Okero, confirmed that the decree holders were unable to enjoy prayer **C** of the decree, to have the 1st plaintiff registered as a joint tenant and co-owner of the suit property, despite the necessary documents having been signed and submitted to the Land Registrar Kitale.
7. Further, learned senior counsel urged the court to order the release of the original title deed to his clients, for

cancellation and completion of the transfer and issuance of a new title deed in line with the court's decree.

- 8.** Learned counsel Miss Nafula for the plaintiffs conceded to the request that her clients were not opposed to the same if the title deed is still under the custody of the court, since there was no pending appeal.
- 9. Order 14 Rule 5** of the Civil Procedure Rules provides that a party may request the release of specific exhibits after the completion of a case. The discretion lies with the court that admitted the document as an exhibit.
- 10.** The advocate for the 1st plaintiff has confirmed that they have no objection to the release of the exhibit. On the other hand, the decree holders urge the court to release the exhibit to them for its surrender to the Land Registrar for cancellation and issuance of a new title deed, in favour of the 1st plaintiff and the 1st defendant, in line with the court's decree.
- 11.** The court finds no reason to withhold the original title deed, for there is no superior decree or order from the Court of Appeal staying the execution of the decree. The Deputy Registrar shall facilitate the surrender of the original title deed to the safe custody of the Land Registrar for further action. A certified copy of the exhibits shall be retained in the court record.
- 12.** Orders accordingly.

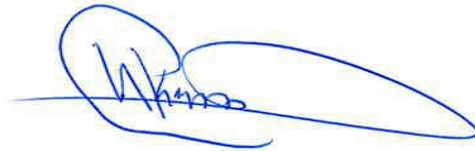
Ruling dated, signed, and delivered via Microsoft Teams/Open Court at Kitale on this 19th day of January 2026.

In the presence of:

Court Assistant - Dennis

S.C. Okero for the decree holder present

Samba for the judgment debtor present



**HON. C.K. NZILI
JUDGE, ELC KITALE.**