

REPUBLIC OF KENYA
IN THE HIGH COURTS OF KENYA AT NAKURU
CIVIL CASE NO. 190 OF 2002

JAYATNTILAL SHAMJI SHAH1ST PLAINTIFF
BUILTECH LIMITED.....2ND PLAINTIFF

VERSUS

NYAMBOKE G. ONSONGO 1ST DEFENDANT /APPLICANT
JAQUINE OSORO
T/A VILLANT AUCTIONEERS.....2ND DEFENDANT
KENYA COMMERCIAL BANK LIMITED.....3RD DEFENDANT

RULING

1. Through a Notice of Motion dated 18th February, 2025 expressed to have been brought pursuant to Section 3,3A and 63 (e) of the Civil Procedure Act, the Applicant, **Nyamboke G. Onsongo** is seeking for the following Orders;-

1) *Spent*

2) *THAT the honourable court do authorise the the Deputy Registrar and/or Executive Officer of this honourable court to sign the transfer forms in respect of the NAKURU MUNICIPALITY BLOCK 2/513 so as the land can be transferred to one Gridah Namboke Onsongo in line with the Decree of this court issued on 3rd November , 2024vin Nakuru Civil Suit No. 190 of 2002 between Jayantilal Shamji Shah & another vs Nyamboke G. Onsongo & 2 others.*

3) *THAT the costs of the application be in the cause. beneficiary of*

2. The grounds are on the face of the application and supported by the Affidavit of the Applicant sworn on even date. The Applicant states that the court issued an order directing that the parcel of land known as Nakuru Municipality Block 2/513 to be sold in the execution of a court decree. That

the said property was sold to the Applicant on 31st July 1999 through a public auction where she was declared the highest bidder.

3. She states that on 16th December 2002, the Plaintiffs/Respondents' filed a suit seeking several orders including nullification of the sale of the said property by public auction conducted by the 2nd Defendant as the agent of the 3rd Defendant.
4. It is her averment that the suit was dismissed by Lady Justice H.A. Omondi on 7th October 2014. However, the said property cannot be transferred to one Gridah Nyamboke Onsongo without duly signed transfer forms.
5. It is deponed that upon conducting an official search, the Applicant established that Jayantilal Shamji Shah still holds the title to the said property and she is apprehensive that he will not be keen on complying with court Orders.
6. In the cause of these proceedings, Mr. Machoka for the Applicant intimated to court that Mr. Orege for 1st Respondent had informed him that the 1st Respondent passed away hence he had no instructions to respond to this application. Further, he informed the court that the 2nd and 3rd Defendant had informed him that they were not interested in the application.
7. In the circumstances, Mr. Machoka who intended to call one witness in this case, explained and that 2nd and 3rd Respondents they are not even party to the application and therefore, he urged the court to consider the application unopposed and proceed to deliver a ruling.

Determination

8. This court has considered the court record, the application and the annexures thereto. There is no doubt that by application dated 9th July 2014, the Applicants herein sought that Plaintiffs' suit challenging the auction be dismissed for want of prosecution. Indeed, the Court delivered its Ruling on 7th October 2014 allowing that application with costs to be borne by

the Plaintiffs. Further, Jayantilal Shamji Shah who had been sued in his personal capacity was found to have passed away and therefore, the suit against him had abated.

9. In those circumstances and with the title to the property known as Nakuru Municipality Block 2/513 said to be still in the name of Jayantilal Shamji Shah, and there being no opposition to this application, then it is interest of justice that the Transfer Forms in respect of the said property be signed by the Deputy Registrar of this Court.
10. In conclusion therefore, the application dated 18th February, 2025 is allowed in the following terms:-

1. **The Deputy Registrar of High Court Nakuru be and is hereby authorised to sign the transfer forms in respect of the NAKURU MUNICIPALITY BLOCK 2/513 so that this property can be transferred to Gridah Namboke Onsongo in line with the Decree of this court issued on 3rd November, 2024 in Nakuru Civil Suit No. 190 of 2002 between Jayantilal Shamji Shah & another vs Nyamboke G. Onsongo & 2 others.**

2. **No orders as to costs.**

Dated, signed and delivered at Nakuru this 9th Day of February, 2026.

PATRICIA GICHOHI

JUDGE

Mr. Machoka for 1st Defendant/Applicant

N/A for Plaintiffs /Respondents

Erickson, Court Assistant

ORIGINAL