



REPUBLIC OF KENYA



**KENYA LAW**  
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**GNN v JNK (Matrimonial Cause 14 of 2016)  
[2026] KEHC 3770 (KLR) (18 March 2026) (Judgment)**

Neutral citation: [2026] KEHC 3770 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
MATRIMONIAL CAUSE 14 OF 2016**

**JM NANG'EA, J  
MARCH 18, 2026**

**BETWEEN**

**GNN ..... APPLICANT**

**AND**

**JNK ..... RESPONDENT**

**JUDGMENT**

1. By Original Summons (“O.S.”) dated 2<sup>nd</sup> February 2014 that was amended on 13<sup>th</sup> October 2020, the Applicant prays for orders as follows:-

1. That this honourable court be pleased to declare that the following immovable property acquired during the subsistence of the marriage with the joint efforts of the applicant and the respondent and developed by their joint funds and efforts is jointly owned by the applicant and the respondent and developed by their joint funds and efforts is jointly owned by the applicant and the respondent though registered in the respondents name in trust for both.

- a. Nyandarua/Mawingo/Salient/1XXX
- b. Sipili Ndonyo Loip/Block 1/1XXX (Laikipia)
- c. Nyakinyua Kanini Kega Plot No. XXX
- d. Nyandarua/Mawingo/Settlement/1XXX former Nyandarua/Mawingo/Salient 8XX subdivided into:  
Nyandarua/Mawingo/Salient/1XXX  
Nyandarua/Mawingo/Salient/1XXX  
Nyandarua/Mawingo/Salient/1XXX  
Nyandarua/Mawingo/Salient/1XXX



- e. Nyandarua/Mawingo/Salient/8XX
  - f. Nyandarua/Ol Kalou Central/XXX
  - g. Nyandarua/Mawingo/Salient/9XX
  - h. Nyandarua/Mawingo/Salient/8XX
1. That this court be pleased to order that the property jointly acquired and or inherited by the applicant and the respondent be divided in equal shares taking into consideration all such property that has been sold by the respondent.
  2. That this honourable court be pleased to grant such further or other reliefs as may be just in the circumstance.
  3. That costs of this application be in the cause.
  4. The Application is supported by affidavit purportedly sworn on 13/10/2020.
2. The Respondent opposes the Application vide a Replying Affidavit sworn on 20<sup>th</sup> June 2016 and a further affidavit of 3<sup>rd</sup> March 2017.
  3. The O.S. was heard by means of viva voce evidence, the parties adopting their respective affidavits as their evidence. The Applicant testified that she got married to the Respondent in the year 1989 and were thereafter blessed with one child known as PG (deceased). Her deceased son left behind seven (7) children she is taking care of. The Applicant further stated that she lives on family property known as Nyandarua/Mawingo /Salient/XX which originally belonged to her sister before she swapped it with another parcel of land bought by the Respondent. The Applicant's deceased son's wife is said to be residing on a parcel of land described as Nyandarua/Ol Kalou Central/XXX.
  4. As confirmed from a Decree Nisi issued on 13<sup>th</sup> June 2013 the Applicant exhibits, her marriage with the Respondent solemnised on 9<sup>th</sup> September 1989 has been dissolved. She had previously separated with the Respondent for selling land she had inherited from her father, proceeds of which sale the Respondent allegedly failed to account for.
  5. The Applicant accuses the Respondent of selling the following properties during their marriage;-
    - a. Nyandarua/Mawingo/Salient/8XX
    - b. Nyandarua/Mawingo/Salient/334
    - c. Nyandarua/Mawingo/Salient/1XXX
    - d. Nyandarua/Mawingo/Salient/1XXX
    - e. Nyandarua/Mawingo/Salient/1XXX
    - f. Nyandarua/Mawingo/Salient/1XXX
    - g. Nyandarua/Mawingo/Salient/8XX
    - h. Nyandarua/Mawingo/Salient/1XXX
    - i. Unsurveyed Commercial Plot No. A C
    - j. Plot 10 & Plot 11 in Ol Kalou Township
    - k. Plot No. 26 Sipili



- l. Bahati/Bahati Block 1/1XXX
  - m. Nissan KAN 889 L & KAS 184
  - n. Plot No. 1XXXX0
  - o. Plot No. B 1XXXX51
  - p. Plot No. C 1XXXX9
  - q. Plot No. D 1XXXX4
  - r. Plot No. E 1XXXX1
  - s. Plot No. F 2XXXX2
7. The Applicant further avers that the following remaining properties are registered in the Respondent's name;
- t. Nyandarua/Mawingo/Salient/1XXX
  - u. Sipili Ndonyo Loip/Block 1/1XXX (Laikipia)
  - v. Nyakinyua Kanini Kega Plot No. XXX
  - w. Nyandarua/Mawingo Salient/1XXX
  - x. Nyandarua/Olkalou Central XXX
8. The Applicant therefore prays that the court does find that the respondent has sold most of their matrimonial property as well as other property she inherited from her father. She wants the remaining properties to be divided equally between them in the circumstances.
9. The Applicant also places reliance on her affidavits said to have been sworn on 19<sup>th</sup> June 2017, 23<sup>rd</sup> March, 2017 and 23<sup>rd</sup> February 2016 more or less reiterating the same averments. Reference is also made to a further affidavit sworn on 2<sup>nd</sup> February 2014 in answer to the Respondent's Replying Affidavit.
10. According to the Applicant, she has filed more documents she also relies upon, pursuant a court order issued on 30/6/2021. The documents seem to be copies of Green Cards in respect of parcels of land mentioned in the O.S. as well as in the Respondent's affidavit in reply.
11. The evidence is underscored in the Applicant's oral evidence proffered on 10/3/2025. She denies authorizing sale of any of their matrimonial property. According to her properties registered in her name belong to her exclusively since she acquired them from her deceased father. She further states that she holds some of these properties in trust for her relatives.
12. The Respondent reacted to the Application vide affidavits purportedly sworn on 20<sup>th</sup> June 2016 and 3<sup>rd</sup> March 2017. He contends that any disposition of the properties in question during subsistence of their marriage was with the Applicant's consent. He continues to assert that he solely acquired the properties in issue from earnings he got from his employment. In particular, the Respondent claims to have bought land he describes as No. 1XXX in 1972 and told the court he has tendered the purchase receipts.
13. It is also the Respondent's evidence that parcels he states as nos. 1XXX and XXX are, the only ones registered in his name as at the time of hearing this matter. He expresses willingness to share these



- properties with the Applicant on condition that she also agrees to share properties in her name with him.
14. According to the Respondents Land Parcel No. Nyandarua/Mawingo/Salient/XX never belonged to the Applicant's sister contrary to the Applicant's claim. He denies selling any property the Applicant inherited from her father. Any properties that were sold off were purportedly disposed of with the consent of the Applicant to settle debts, he explains. The Respondent claims to have acquired property known as Sipili/Ndonyo Loip Block 1/XXX in 1972 long before he married the Applicant, while property known as Nyakinyua/Kanini Kegaga Plot No. XXX belongs to his first wife. Property No. Nyandarua/Mawingo Salient/1XXX is not registered in the Respondent's name as per his evidence.
  15. The Respondent continued to testify that the remaining properties were acquired with joint effort of himself and his two wives then who included the Applicant.
  16. Learned Counsel for the parties filed written submissions which I have perused against the evidence and the record. It is common ground that the parties got married on 9<sup>th</sup> September 1989 and the marriage was dissolved on 13<sup>th</sup> June 2013. The following are the contentious properties registered in respect of the Respondent's name of which. This court's adjudication is sought;
    - a. Nyandarua/Mawingo/Salient/137/registered on 3/6/1XX8 inoMahesh Kantilal/Singh.
    - b. Sipili Ndonyo Loip/Block 1/1XXX (Laikipia) registered on 13/9/2000 in the name of the Respondent.
    - c. Nyandarua/Olkalou Central/XXX, registered on 7/1/1XX1 in the name of the Respondent.
  17. The above registration particulars are as at 21/7/2021 in terms of copies of Green Cards tendered by the Applicant.
  18. The Respondent asserts that only the above parcel Nos. 1XXX and XXX were registered in his name as at the time of hearing this matter and he is willing to share them with the Applicant if she also agrees to share properties in her name.
  19. The Applicant has not proven that the sold properties were transferred without her consent. She has not called evidence corroborating her contention and dislodging the Respondent's evidence in this regard. Neither has she proven her contribution to acquisition of the properties. The court in the circumstances declines to cater for the Applicant in lieu of the sold parties.
  20. The Respondent concedes to share with the Applicant parcel numbers XXX and 1XXX if she also give him a portion of properties registered in her name. The Respondent has not, however, shown how he contributed to acquisition of these properties which are not even specified.
  21. From the registration particulars exhibited, parcels numbers XXX and 1XXX were acquired during subsistence of the marriage between the parties. The Applicant has not proven her financial contribution to acquisitions of the two properties. In recognition of her indirect contribution pursuant to the Section 2 of the *Matrimonial Property Act*, I would grant her 30% of each of the two properties.
  22. In the end, the Applicant is granted 30% share of each of the Matrimonial Properties described as Nyandarua/Mawingo/Salient/1XXX and Nyandarua Olkalou Central/XXX. The Applicant failed to prove her claim to the other properties in contention. Being a family matter, each party shall bear their own costs of the Originating Summons.
  23. Judgement accordingly.



**JUDGEMENT DATED, SIGNED AND DELIVERED VIRTUALLY THIS 18<sup>TH</sup> DAY OF MARCH, 2026.**

**J. M NANG'EA, JUDGE.**

In the presence of:

Mr. Kimaru Advocate for Mr. Ngotho for the Applicant

Respondent's Advocate, Absent

Court Assistant (Jeniffer)

