



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL SUIT NUMBER 219 OF 1994

NATIONAL BANK OF KENYA.....

.....PLAINTIFF

VERSUS

JOSEPH

KINYANJUI

NJENGA.....DEFENDANT

RULING

1. Before this Court for determination is the Defendant/Applicant's Notice of Motion Application dated 22nd September, 2025 for the following reliefs:-

- i) THAT this Honorable court be pleased to issue an order directing the**

Plaintiff/Respondent to release to the Defendant/Applicant the original Title Deed for land parcel number L.R 15165/32 (I.R. NO 55548) together with a duly executed Discharge of Charge document.

ii) THAT the case of this Application be borne by the Plaintiff/Respondent.

2. The Application is supported by the grounds set out on the body thereof and the annexed Supporting Affidavit sworn by the Applicant. The Applicant deposes that the Respondent instituted this suit against him for *inter alia* recovery of Kshs. 2,558,758 advanced to the Applicant and secured by a legal charge registered against a parcel of land known as **L.R. No. 15165/32 (I.R. No. 55548)**.
3. Pursuant to a consent order dated 3rd July 2012, the Applicant claims to have settled the outstanding amount but the Respondent has failed to release the original Title to the charged property and a duly execute Discharge of Charge. It is contended that the Applicant wrote several letters to the Respondent including those dated 24th August

2006, 22nd June 2020, 18th September 2023 and 13th January 2025 requesting for release of the Title, to no avail.

4. The Applicant now wants the Respondent to be compelled to surrender the original Title Deed together with duly executed Discharge of Charge forms so that the Applicant may register the discharge.
5. No submissions were filed or made on the Application.
6. Although the Applicant's Legal Counsel on 1st December, 2025 stated that he had served the Application, there is no Affidavit of Service to confirm the fact. Instead, the Applicant relies on an affidavit of service sworn by one Richard Kipkurui Kerich on 6th March, 2026 but that affidavit seems to relate to a mention notice for 1st December, 2025. The court process purportedly served is not also exhibited in the affidavit.
7. In effect, the Court is not satisfied as to service of the Application and declines to grant it as unopposed.

Ruling Delivered, Signed and Dated at Nakuru on this 13th day of April, 2026.

J. M. NANG'EA - JUDGE

In the presence of;-

Mr. Karanja Advocate for the Applicant

Respondent, Absent

Court Assistant (Ng'eno)

J.M. NANG'EA - JUDGE

ORIGINAL