

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KAJIADO**

**ELC NO. E024 OF 2020**

**MICHAEL LUKE OWOR OTIM .....**

**PLAINTIFF/APPLICANT**

**VERSUS**

**PETER KINYANJUI NDIVISI ..... 1ST**

**DEFENDANT**

**JAMES KOIGI ..... 2ND**

**DEFENDANT**

**THE LANDS REGISTRAR, KAJIADO LANDS REGISTRY..... 3RD**

**DEFENDANT**

**COUNTY GOVERNMENT OF KAJIADO ..... 4TH**

**DEFENDANT**

**RULING**

*(In respect of the Plaintiff's Notice of Motion application dated 11th March 2026  
seeking review of order 2 of the Judgement/Decree of this court)*

**Introduction**

1. What is coming up for determination before this Honourable Court is the Plaintiff's/Applicant's Notice of Motion application dated 11th March 2026. The application is brought under the provisions of Sections 1A, 1B, 3A & 80 of the Civil Procedure Act, and Order 45 Rule 1, 2(1) and 2(2) of the Civil Procedure Rules, alongside all other enabling provisions of the law.
2. Through the said application, the Plaintiff/Applicant moves the Court seeking the following orders:
  - a. ***THAT the Court be pleased to review Order 2 of the decree herein dated 19th October, 2023 by including L.R NO. NGONG TOWNSHIP BLOCK 2/475 as part of Order 2 of the Decree dated 19th October, 2023.***
  - b. ***THAT costs of this application be provided for.***
3. The application is premised on the grounds set out on the face of the Motion and is further supported by the Affidavit of Michael Luke Owor Otim, the Plaintiff herein, sworn on the 11th day of March 2026, together with the annexures thereto.
4. The brief background leading to this application, as gleaned from the Supporting Affidavit, is that following a judgment by this Court on 28th September 2023, a decree was extracted dated 19th October 2023. Order 2 of the said decree specifically directed the revocation and cancellation of the

titles issued in respect of the suit land in the names of the 1st and 2nd Defendants.

5. The Applicant avers that upon presenting the decree to the Land Registrar at the Kajiado Lands Registry to effect the cancellation, the Registrar declined to register the decree. The rejection was based on the fact that the specific title held by the 1st and 2nd Defendants, namely **L.R NO. NGONG TOWNSHIP BLOCK 2/475**, was not explicitly mentioned in the decree.
6. Consequently, the Applicant contends that the Registrar's refusal has stalled the realization of the Court's judgment. To cure this and enable the Land Registrar comply with the Court's decree, the Applicant has approached this Court seeking a review to expressly include the aforementioned land reference number in the decree. The Applicant maintains that amending the decree is necessary, just, and fair, and that no prejudice will be suffered by the Defendants whose appeal out of time has already been dismissed by the Court of Appeal.

#### **Directions**

7. The application was canvassed by way of oral submissions. Only the Plaintiff/Applicant submitted briefly and the said submissions have been duly considered in the writing of this ruling.

#### **Issues for determination**

8. I have carefully considered the Applicant's Notice of Motion application, the Supporting Affidavit of Michael Luke Owor Otim, and the annexures thereto. The application is unopposed. The sole issue for determination is whether the application is merited to justify a review of the decree of this court.

**Analysis and Determination**

9. The Applicant approached this Court seeking a "review" of Order 2 of the Decree dated 19th October 2023, hinging the application on Section 80 of the Civil Procedure Act and Order 45 rule 1 of the Civil Procedure Rules. However, upon close examination of the application and the relief sought, it is apparent that the Applicant is not seeking to alter the substantive findings or the operative rationale of the Judgment delivered on 28th September 2023. Rather, the Applicant seeks the insertion of a specific title number, **L.R NO. NGONG TOWNSHIP BLOCK 2/475**, which was inadvertently omitted from the formal decree, rendering it administratively un-executable by the 3rd Defendant (the Land Registrar).

10. The Plaintiff/Applicant has obviously invoked the wrong procedural mechanism. The proper avenue for correcting such an anomaly is not a substantive review, but an amendment to cure an accidental slip or omission under section 99 of the Civil Procedure Act.

11. Nevertheless, this Court is guided by the constitutional imperative to administer substantive justice over mere form. **Article 159(2)(d) of the Constitution of Kenya, 2010**, commands the court to do justice without undue regard to procedural technicalities.

12. Consequently, I shall look beyond the nomenclature of the application and treat it as an application for amendment of a decree, under the "Slip Rule". The statutory anchor for this authority is **Section 99 of the Civil Procedure Act (Chapter 21, Laws of Kenya)**, which provides verbatim:

*"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."*

13. The jurisprudence surrounding Section 99 is well-settled. The overarching purpose of the "Slip Rule" is to ensure that the formal records and decrees of the Court perfectly mirror the Court's true and manifest intention as expressed in its Judgment. As was aptly observed by the Court of Appeal in the case of *Standard Chartered Bank Kenya Limited v. Intercom Services Ltd & 4 others [2004] eKLR*:

*"The slip rule is an exception to the general rule that a court becomes functus officio upon pronouncing judgment. It is intended*

*to be used to correct a clerical or arithmetical mistake or an error arising from an accidental slip or omission... the court has inherent power to vary its own orders so as to carry out its own meaning and to make its meaning plain."*

14. Applying the above reasoning to the matter at hand, a perusal of the Court's Judgment delivered on 28th September 2023 reveals that the Court explicitly found the 1st and 2nd Defendants' title to be a forgery superimposed over the Plaintiff's unsurveyed land. Order (c) of the Judgment directed the revoking and/or cancelling of "*the titles issued in respect of the suit land in the names of the First and Second Defendants.*"

15. While the decree extracted on 19th October 2023 faithfully reproduced this wording at Order 2, it failed to state the actual registered title number (**L.R. NO. NGONG TOWNSHIP BLOCK 2/475**) which the 1st and 2nd Defendants held. As the Land Registry operates strictly on registered title numbers rather than descriptions of unsurveyed plots, this accidental omission has frustrated the execution of the Court's final orders.

16. It is an undisputed fact that the only registered title in the names of the 1st and 2nd Defendants in respect of the suit property is **L.R NO. NGONG TOWNSHIP BLOCK 2/475**. Supplying this specific identifier in the decree does not rewrite the Judgment, prejudice the Defendants, or alter the

substantive rights of the parties; it merely provides the requisite administrative clarity necessary for the Land Registrar to comply with the Court's directive.

17. In the premises, I am satisfied that the omission of the title number in the decree constitutes an accidental slip within the meaning of Section 99 of the Civil Procedure Act. It is only fair and just that the Court exercises its power to correct this omission so that the successful litigant may realize the fruits of his Judgment.

18. For the foregoing reasons, the Notice of Motion application dated 11th March 2026 is hereby determined as follows:

A. **THAT** in exercise of the Court's powers under Section 99 of the Civil Procedure Act, Order 2 of the Decree issued herein and dated 19th October 2023 is hereby amended and corrected to expressly include the land reference number **L.R. NO. NGONG TOWNSHIP BLOCK 2/475.**

B. **THAT** for the avoidance of doubt, the amended Order 2 of the Decree shall read verbatim: "***THAT an order be and is hereby issued revoking and or cancelling the titles issued in respect of the suit land in the names of the First and Second***

***Defendants respectively, being L.R NO. NGONG TOWNSHIP  
BLOCK 2/475."***

C. **THAT** a fresh, amended Decree incorporating this correction be extracted and issued to the Plaintiff/Applicant forthwith for execution.

D. **THAT** there shall be no orders as to costs.

**Orders accordingly.**

**Dated Signed and Delivered at Kajiado Virtually this 15<sup>th</sup> Day of April 2026.**

**M.D. MWANGI  
JUDGE**

**In the virtual presence of:**

Mr. Maramba for the Plaintiff/Applicant

N/A for the Respondents

Court Assistant: Alex

**M.D. MWANGI  
JUDGE**