



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT THIKA

ELC MISC.CASE NO.38 OF 2017

IN THE MATTER OF DISCHARGE OF CHARGE AGAINST LR.NO.LIMURU/BOBIRIONI/T.443

AND

IN THE MATTER OF THE LAND REGISTRAR KIAMBU

MARY NJERI MWAURA.....APPLICANT

RULING

The Court has considered the *Notice of Motion* application dated **23rd April 2019**, wherein the applicant has sought for orders that:

- 1) That this Honourable Court be pleased to amend its orders issued on the 21st December 2017 especially in Order 1 which reads...That an Order be and is hereby issued directing the Land Registrar Kiambu to withdraw a Restriction and/or Caution against LR.No.Limuru/Bibirioni/ T.443 by inclusion of the clause 'discharge of charge'.**
- 2) That costs of this application be provided for.**

The application is supported by the affidavit of *Mary Njeri Mwaura* and on the following grounds:-

- a) That the Applicant has been advised by the Land Registrar Kiambu to have the orders issued on the 21st September 2018 amended to specifically capture the existing charge dated 23rd September 1982 for effective execution of the discharge of charge against LR.No.Limuru/Bibirioni/T.443.**
- b) That there is need for the amendment as sought to facilitate the registration of a discharge of charge.**

This is an ex parte application and it is evident that on **13th June 2017**, the Applicant has filed another Miscellaneous Application wherein she sought for orders that the court do grant orders directing the *Land Registrar Kiambu* to withdraw restriction and/or caution against *Limuru/Bibirioni/T.443*. It is also evident that on **20th December 2017**, the court allowed the said application dated **13th June 2017**. An Order was extracted on **21st December 2017** wherein the *Land Registrar Kiambu* was directed to withdraw a restriction and or caution against the suit property. It is also evident that in the said Ruling of **20th December 2017**, the court had noted that there was a charge registered over the suit property on **23rd September 1982**, but however the benefactor of the said charge had never sought to realize the security and that meant that the loan was repaid.

The Applicant seeks for discharge of the said charge so that the title can be free from any encumbrances. For the above reasons, the court finds the Applicant's *Notice of Motion* date **23rd April 2019** is merited and the same is allowed entirely and there is now inclusion of clause 'discharge of charge' in the earlier order issued by the court. Costs shall be in the cause.

It is so ordered.

Dated, Signed and Delivered at Thika this 12th day of July 2019.

L. GACHERU

JUDGE

In the presence of

Present in person Mary Njeri Mwaura for Applicant

Lucy - Court Assistant.

L. GACHERU

JUDGE

12/7/2019