



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA

ELC CASE NO. 256 OF 2013

TERESIA MABUTI NJAGARA.....PLAINTIFF

VERSUS

NJAGARA NGURE..... DEFENDANT

RULING

In her application dated 28th August 2019, the applicant seeks the following orders:

- (1) That the Honourable Court be pleased to amend the decree herein.**
- (2) That the plaintiff's name be amended to read TERESIA MABUTI MURIITHI instead of TERESIA MABUTI NJAGARA.**
- (3) That the costs of the application be provided for in any event.**

The application is supported by eight grounds shown on the face thereof and an affidavit sworn by the applicant on 28th August 2019. According to the applicant, this matter has been heard and determined by this Honourable Court and a decree issued in which the matrimonial properties owned by the plaintiff and the defendant be shared equally. The applicant further stated that though the parcels to be sub-divided are in the process of transfer, her name in the National Identity Card reads TERESIA MABUTI MURIITHI while that in the decree reads TERESIA MABUTI NJAGARA. She argued that there was an error in presentation of the case in the names shown in the decree instead of the names reflected in her National Identity Card. The applicant contends that the mistake is a clerical error which requires correction for purposes of concluding the execution process and that the application will not in any way prejudice the respondent. A copy of her National Identity Card is attached to the supporting affidavit. The respondent did not file any affidavit or grounds of opposition in response thereto.

I have considered the affidavit evidence and grounds in support of the application. The orders being sought by the applicant are inherent powers conferred upon Court to fulfill itself properly and effectively as a Court of law. It can be exercised by summary process without plenary trial. It may also be invoked not only in relation to anyone, whether a party or not, and in relation to matters not raised in litigation between the parties. The inherent power is intended to enable the Court to exercise control over process by regulating its proceedings by preventing the abuse of the process and by compelling the observance of the process. This Court rendered itself on 20th April 2015 and a decree was drawn pursuant to the judgment of the Court. It will be an exercise in futility if an order of this Court is incapable of being enforced.

In the case of *Vallabhdas Karsandos Raniga Vs Mansukhlal Fiuraj & others (1965) E.A 780*, the East African Court of Appeal held:

“Section 3(2) of the Appellate jurisdiction Act confers on the Court of Appeal the same jurisdiction to amend judgments, decrees and orders that the High Court has under Section 99 of the Civil Procedure Act, making it unnecessary to look to the inherent powers of the Court. The words “at any time” in Section 99 clearly allow the power to amendment to be exercised after the issue of a formal order..... “Slip orders” are made to rectify omissions resulting from the failure of counsel to costs and other matters to which their clients are entitled

A Court will only apply the slip rules where it is fully satisfied that it is giving effect to the intention of the Court at the time when judgment was given or, in the case of a matter which was overlooked, where it is satisfied beyond doubt, as to the order which it would have made had the matter been brought to its attention

I agree with the finding of the Superior Court. Under **Section 21 Rule 7 (1) of the Civil Procedure Rules 2010**, a decree should among others state the names and descriptions of the parties and particulars of the claim and the relief granted. In this case, the applicant has stated that her names as it appears in these proceedings are different from that appearing in her National Identity Card. In this case, the error is in the

portion of the names as reflected in the National Identity Card which is required to be captured in that decree. I find the application merited and the same is allowed as prayed. I make no order as to costs.

READ, DELIVERED and SIGNED in open Court at Kerugoya this 25th day of October, 2019.

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E.C. CHERONO

ELC JUDGE

25TH OCTOBER, 2019

In the presence of:

1. Mr. Ombachi for Plaintiff/Applicant – present
2. Defendant/Respondent – absent
3. Okatch – Court clerk – present