



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NYERI**

**ELC NO. 150 OF 2013**

**DAMARIS WANJIKU KANJA.....PLAINTIFF**

**-VERSUS-**

**JOHN MUTHEE KANJA.....DEFENDANT**

**RULING**

1. The application dated 13<sup>th</sup> December, 2017 seeks the following orders:-

- 1. That the Executive Officer of this Honourable court do sign all land subdivision and transfer document in regard to land parcel number Ruguru/Kiamariga/464 on behalf of John Muthee Kanja.**
- 2. That an order be issued dispensing with the production of the title deed to Land parcel Number Ruguru/Kiamariga/464 during subdivision.**
- 3. That the Nyeri Land Registrar and Surveyor be directed to effect subdivision of Land Parcel Number Ruguru/Kiamariga/464.**
- 4. That the O.C.P.D and O.C.S. Kiamariga Police Station do provide security and ensure compliance of such orders as issued by this honourable court.**
- 5. That the costs of this application be provided for.**

2. The application is premised on the following grounds:

- a) That plaintiff/applicant was awarded (2) two acres out of land parcel number Ruguru/Kiamariga/464 and a decree dated 19<sup>th</sup> December, 2014 issued.
- b) The defendant/respondent has refused, failed and or ignored the applicant's request to have the land subdivided.
- c) The plaintiff/applicant stands to suffer irreparable loss and damage in the circumstances.

3. Judgment in this matter was entered in favour of the plaintiff/applicant on 11<sup>th</sup> December, 2014 that the defendant holds land parcel No. Ruguru/Kiamariga/ 464 in trust for himself and the plaintiff and the said trust should be terminated for the plaintiff to get 2 acres out of the suit land. The applicant states that since the defendant has refused, failed and or ignored the applicant's request to have the land subdivided, the court should step in and order the executive officer to sign subdivision and transfer documents on behalf of John Muthee Kanja.

4. The application is not opposed.

5. An affidavit of service sworn on 19<sup>th</sup> January, 2018 by Japhet Kimosop Saigut in paragraph 3 states that he served David Muthee Kanja with the application on 18<sup>th</sup> January, 2018, who accepted service but declined to sign for it.

6. The court having found judgment in favour of the applicant and been satisfied that the respondent was properly served with the instant motion, I allow prayers 1 and 2 in the application dated 13<sup>th</sup> December, 2017.

**Dated, signed and delivered in open court at Nyeri this 13<sup>th</sup> day of March, 2018.**

**L N WAITHAKA**

**JUDGE**

Coram:

Ms Macharia h/b for Ms Mwai for the plaintiffs/applicants

N/A for the respondents

Court assistant - Esther