



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT CHUKA

CHUKA ELC CASE NO 226 OF 2017

DAVID KAMUNDI MURANGA.....PLAINTIFF

VERSUS

CHARLES NJAGI KANGA.....DEFENDANT

RULING

1. In this suit, the plaintiff is David Kamundi Muranga. The defendant is Charles Njagi Kanga. Charles Nyaga is 1st Interested Party and Nicholas Mwiti is 2nd Interested Party.

2. In Chuka ELC 116 of 2017, Charles Nyaga is the 1st plaintiff. Nicholas Mwiti is the 2nd plaintiff. Charles Njagi M'Mkanda is the 1st defendant. Mariko Kamune is the 2nd defendant.

3. By a Consent judgment delivered in ELC 116 OF 2017, on 30th April, 2018, the suit was marked as withdrawn and settled and MARIKO KAMUNDE was declared the rightful owner of Land Parcel No. Muthambi/Lower Karimba/1604. The full judgment is reproduced herebelow:

CHARLES NYAGA & ANO.....PLAINTIFFS

VERSUS

CHARLES NJAGI & ANO.....DEFENDANTS

CONSENT JUDGMENT

1. In their plaint dated **1st July, 2009**, the plaintiffs pray for judgment against the defendants jointly and severally for:

- a) A declaration that the 1st defendant is holding L.R. No. Muthambi/Lower-Karimba/1604 in trust for the plaintiffs.
- b) A declaration that L.R. No. Muthambi/Lower-Karimba/1604 is the property of the plaintiffs.
- c) An order of cancellation of the 1st defendant's name from the Register of L.R. No. Muthambi/Lower-Karimba/1604.
- d) An order of injunction restraining the defendants from disposing of, transferring or in any way interfering with the plaintiffs' occupation and use of L.R. No. Muthambi/Lower-Karimba/1604.
- e) Costs and interest
- f) Any further or better relief this honourable court may deem fit to grant.

2. On **30th April, 2018** the parties proffered a consent in the following terms.

THE DEPUTY REGISTRAR,

CHUKA LAW COURTS,

P. O. BOX 73-6040,

CHUKA

Dear Sir/Madam,

RE: CHUKA ELC NO. 116/2017

CHARLES NYAGA & NICHOLAS MWITI

VERSUS

CHARLES NJAGI M'KANGA & MARIKO KAMUNDE

Kindly record the following consent order,

THAT;

“By consent of all the parties herein the plaintiffs’ suit against the defendants be and is hereby marked as fully settled with no orders as to costs”.

DATED AT CHUKA THIS 3RD DAY OF APRIL, 2018

We so consent.

Charles Nyaga

1st plaintiff

Nicholas Mwiti

2nd plaintiff

Charles Njagi M’Kanga

1st defendant

Mariko Kamunde

2nd defendant

3. Through his identity card No. 20687269, the court confirmed the identity of the 1st plaintiff, Charles Nyaga. The 2nd plaintiff, Nicholas Mwiti’s identity was confirmed through his identity card No. 25620352.

4. The 1st defendant, Charles Njagi M’Kanga was identified through his identity card No. 4451201. The 2nd defendant Mariko Kamunde was identified through his identity Card NO. 4863987.

5. The court notes that the 1st and 2nd plaintiffs on 3rd April, 2018 filed a notice of intention to act in person in place of the firm of Maitai Rimita & Co. Advocates. It also notes that the 1st and 2nd defendants on 3rd April, 1018 filed a notice of intention to act in person in place of the firm of P. M. Mutani & Co. Advocates.

6. The plaintiffs asked the court that the suit be marked as withdrawn and settled with the effect that the 2nd defendant, MARIKO KAMUNDE, would remain legal owner of Land Parcel No. MUTHAMBI/LOWER-KARIMBA/1604.

7. The defendants agreed with the plaintiffs request.

8. The parties’ consent dated 3rd April, 2018 and filed in court the same day is hereby adopted as an order of the court. As a consequence, it is ordered as follows:

a) This suit is marked as withdrawn with no order as to costs.

b) For avoidance of doubt, it is declared that land Parcel No. MUTHAMBI/LOWER-KARIMBA/1604 rightly and legally belongs to MARIKO KAMUNDE, the 2nd defendant.

Delivered in open court at Chuka this 30th day of April, 2018

in the presence of:

CA: Ndegwa

Charles Nyaga – 1st plaintiff

Nicholas Mwiti – 2nd plaintiff

Charles Njagi – 1st defendant

Mariko Kamunde – 2nd defendant

4. I find that the apposite judgment has compromised this suit in its entirety. It is declared that the suit be deemed as having been heard and determined. The application dated **6th November, 2017** filed by the Interested Parties praying that orders issued by this court in its judgment delivered on **17th October, 2017** be set aside is deemed as compromised and abandoned. It is hereby dismissed.

5. Regarding the costs prayed for by Miss Munga who represents the firm of Rimita and co advocates, it is opined that the firm of Rimita & Co. advocates is at liberty to pursue its costs from the plaintiffs in Chuka ELC 116 of 2017 who are also interested parties in Chuka ELC 226 of 2017.

6. It is so ordered.

Delivered in open court at Chuka this 30th day of April, 2018

in the presence of:

CA: Ndegwa

Charles Nyaga – 1st plaintiff

Nicholas Mwiti – 2nd plaintiff

Charles Nyaga M’Kanga – 1st defendant

Mariko Kamunde – 2nd defendant

P.M. NJOROGI

JUDGE