



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA JUDICIAL REVIEW CASE NO. 01 OF 2018

FORMERLY MISCELLANEOUS CIVIL CASE NO. 02 OF 2018

**IN THE MATTER OF AN APPLICATION BY GERALD MBUURI KABUGU FOR ORDERS OF CERTIORARI AND
IN THE MATTER OF SECTIONS 8 AND 9 OF LAW REFORM ACT CAP 26 LAWS OF KENYA AND ORDER 53 CIVIL
PROCEDURE RULES**

AND

**IN THE MATTER OF GATUNGA ADJUDICATION SECTION AND IN THE MATTER OF APPEAL TO THE MINISTER IN
CHARGE OF LANDS AND SETTLEMENT NO. 123 OF 2017**

GERALD MBUURI KABUGU.....EX-PARTE APPLICANT

VERSUS

THE CABINET SECRETARY,

MINISTRY OF LANDS & SETTLEMENT.....1ST RESPONDENT

THE HON. ATTORNEY GENERAL.....2ND RESPONDENT

JOSEPH IKURA WA ZAKAYO.....INTERESTED PARTY

RULING

1. Upon delivery of Judgment in the Judicial Review proceedings, the parties proffered a consent to be adopted as an order of this court. The consent was in the following terms:

CHUKA ELC JR 1/2018

FORMERLY MISCELLANEOUS APPLICATION 2/2018

By consent of the parties and their advocates on record, it is hereby agreed as follows:

1. That the Interested party do transfer Land Parcel No. 1807 Gatunga Adjudication Section to the ex-parte applicant within 30 days of today.

2. Each party bear its costs

Murango Mwenda

For Ex-parte Applicant

Kiongo M. Justin

For Respondents

Joseph Ikuura wa Zakayo

Interested Party

DATED AT CHUKA THIS 14TH DAY OF MAY, 2018

2. Contemporaneously, the Interested Party had filed an application dated **11th May, 2018** which sought the following orders:

1. That the honourable court be pleased to grant leave to the Interested Party to withdraw himself from these proceedings.
2. That the honourable court be pleased to issue any other or further orders it may deem fit to grant.
3. Cost of this application be provided for.

3. The application has the following grounds:-

- a) That the ex-parte applicant who is the 1st Respondent in the instant application commenced the instant proceedings before this Honourable Court and named the applicant in the instant application as an Interested Party.
- b) That ex-parte applicant's decision to file the instant proceedings was to seek orders to quash the decision & award passed by V. A. Matsalla on behalf of the Cabinet Secretary Ministry of Lands & Settlement dated **19th July, 2017**.
- c) That the said decision was in relation to an appeal to the Minister by Gerald Mbuuri Kabugu which was an appeal against the decision of objection No. **513/2013** which awarded land parcel Number **1807** Gatunga Adjudication Section to the applicant.
- d) That the applicant herein is a son (the 1st Respondent having been his sponsor during the circumcision) to the 1st Respondent in the instant application and as such he is not desirous to pursue any case against the said Respondent.
- e) That the applicant who is also a pastor, had a careful reflection and consideration on the instant suit and therefore wishes to withdraw himself from being the Interested Party.
- f) That the applicant is ready and willing to transfer land parcel Number 1807 Gatunga Adjudication Section to the 1st Respondent.

Dated at Meru this 11th day of May, 2018

JOSEPH IKUURA WA ZAKAYO

THE APPLICANT/INTERESTED PARTY

4. In view of the **application** dated **11th May, 2018** having been **overtaken by events as a judgment has already been given, the application is marked as heard and determined.**

5. In the Interest of Justice and in congruence with and in obeisance to the power generously donated to this court by Section 3A of the Civil Procedure Act, with regard to the consent, the following orders are issued:

- (1) By consent, the Intended appeal to the Minister is hereby abandoned.
- (2) The Interested Party, **JOSEPH IKUURA WA ZAKAYO**, is ordered to **transfer Land Parcel No.1807 Gatunga Adjudication Section** to the exparte applicant, **GERALD MBUURI KABUGU**, within the next 30 days.
- (3) If order 2 above is not implemented, the **District Land Adjudication and Settlement Officer** is ordered to have the land registered in the name of **GERALD MBUURI KABUGU** upon expiry of the **30 days period stipulated in order 2 above.**
- (4) Parties to bear their own costs.

6. It is so ordered.

Delivered in open court at Chuka this 14th day of May, 2018 in the presence of:

CA: Ndegwa

Murango Mwenda for the Ex-parte Applicant

Kiongo for the Respondents

Joseph Ikuura Wa Zakayo – Interested Party

P.M. NJORGE

JUDGE.