

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MACHAKOS

ELC. CASE NO. 266 OF 2017

JOSEPH MUSYOKI.....PLAINTIFF

VERSUS

EVALINE NTHAMBI MUNYAO.....DEFENDANT

RULING

1. In the undated Application that was filed on 13th June, 2017, the Plaintiff is seeking for the following orders:

a. That an order to issue compelling the Respondent to show the Plaintiff the physical location and land registration of title number Mavoko Town Block 2/8658.

b. That an order to issue directing the Respondent to consent to the inclusion of the Plaintiff's name by the Registrar of Titles in the Title Deed relating to the land registration of title number Mavoko Town Block 2/8658.

c. That the costs of this Application to be provided for.

2. The Application is supported by the Affidavit of the Plaintiff who has deponed that he jointly acquired a parcel of land known as Mavoko Town Block 2/8658 with the Defendant; that the Defendant is his wife and that the Defendant abandoned their matrimonial home in the year 2016 and left with the original Title Deed for the suit land.

3. In reply, the Defendant deponed that on 19th December, 2008, she entered into two Sale Agreements with Homeward Agencies Limited and purchased the suit land; that she paid for the land in instalments and that she took a loan from Co-operative Bank to purchase the suit land.

4. It was the deposition of the Defendant that the Plaintiff has never contributed to the purchase of the suit land and that the orders being sought can only be granted after the full hearing of the suit.

5. The parties appeared before me on 21st March, 2018 and made oral submissions. The said submissions reiterated their respective depositions which I have already summarized above.

6. The final orders that the Plaintiff is seeking are: an order compelling the Defendant to reveal the physical location of the suit land; an order directing the Defendant to consent to joint registration of the property and for the costs of the suit. These are the same orders that the Plaintiff is seeking in the current Application.

7. The orders that the Plaintiff is seeking are final in nature. The same cannot be granted at an interlocutory stage. Indeed, the Plaintiff can only be granted the said orders after *viva voce* evidence has been taken and not at this stage. Without going into the merits of the Plaintiff's claim, I find that in so far as the Application is seeking for final orders, the same is incompetent. For that reason, I dismiss the Application with no order as to costs.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 11TH DAY OF MAY, 2018.

O.A. ANGOTE

JUDGE