



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 57 OF 2017

FORMERLY MERU ELC. 220 OF 2016

KOOME SAMUEL MWIRARIA.....PLAINTIFF

VERSUS

NICKSON MUGAMBI RUCHA.....DEFENDANT

RULING

1. This application states that it has been brought to court under sections 3 and 3A of the Civil Procedure Act and under Order 45 Rules 1 and 2 of the Civil Procedure Rules. It seeks the following orders:

1. That this honourable court be pleased to certify this application as urgent and dispense with service in the 1st instant.
2. That this honourable court be pleased to review and / or amend its judgment/order dated 14th day of March, 2018 to facilitate the implementation thereof.
3. That this honourable court be pleased to dispense with the surrender of the original title deeds to land parcels Karingani/Ndagani/10455, 10456, 10459, 10460 and 10461.
4. That costs of this application be provided for.

2. The application is supported by the affidavit of KOOME SAMUEL MWIRARIA sworn on 18th July, 2018 and has the following grounds:

- a. That judgment was entered in favour of the plaintiff on the 14th day of March, 2018.
- b. That upon presentation of the court order upon the Land Registrar Chuka, the said Land Registrar requested that the court do order that the surrender of the original titles to Karingani/Ndagani/10455, 10456, 10459, 10460 and 10461 currently registered in the names of the defendant be dispensed with.
- c. That with a view to implementing this court's order it is necessary to review and / or amend the courts order dated 14th day of March, 2018.
- d. That no prejudice will be occasioned upon the defendant if this application is granted.

3. The supporting affidavit states as follows:

I, KOOME SAMUEL MWIRARIA of P. O. Box 14614 Nairobi do make oath and state as follows:

1. That I am an adult male of sound mind and the plaintiff herein hence competent to make and swear this affidavit.
2. That I sued the defendant seeking a declaration that I am entitled to half a share in land parcel No. Karingani/Ndagani/6281 or its resultant subdivisions.
3. That I also sought orders that the Land Registrar Chuka Land Registry do rectify the relevant register and have land parcel No. Karingani/Ndagani/10455, 10456, 10459, 10460 and 10461 registered in my names.

4. That judgment was entered in my favour on the 14th day of Marc, 2018.

5. That upon service of the court order and judgment upon the Land Registrar Chuka, the said Land Registrar told me that she cannot effect or implement the court orders unless the court directs/orders that the production/surrender of the original title deeds in the names of the defendant NICKSON MUGAMBIRUCHA be dispensed with.

6. That I seek a review and / or amendment of this court's judgment/order dated 14th day of March, 2018 to the effect that the surrender of the title deeds Karingani/Ndagani/10455, 10456, 10459, 10460 and 10461 which are currently registered in the names of NICKSON MUGAMBI RUCHA be dispensed with and that the Land Registrar do rectify the register and register the said parcels in accordance with this court's order.

7. That the said review is necessary for the courts order to be implemented.

8. That what is deposed to hereinabove is true to the best of my knowledge, understanding and belief.

4. When the application was heard on 30.7.2018, Mr. Gitonga asked the court to allow the application as it seeks to facilitate the implementation of this court's judgment.

5. I agree.

6. In the circumstances, the application is allowed in terms of prayer 3. In the circumstances the Land Registrar, Chuka is ordered to dispense with the surrender of original title deeds to land parcels Karingani/Ndagani/10455, 10456, 10459, 10460 and 10461. It is hereby clarified that Land Parcel No. KARINGANI/NDAGANI/10459 should be registered in the joint names of Koome Samuel Mwiraria and Nickson Mugambi Rucha, the plaintiff and the defendant respectively.

7. No costs are awarded.

Delivered in open court at Chuka this 30th day of July, 2018 in the presence of:

CA: Ndegwa

Charles Muchiri h/b Frank Gitonga for the Plaintiff/Applicant

P. M. NJOROGÉ

JUDGE