



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA**

**ELC CASE NO. 61 OF 2018**

**MARK DAVID MAKOKHA**

**FRANCIS TUMBO**

**MICHAH LUMIRE.....PLAINTIFFS/APPLICANTS**

**VERSUS**

**PHILIP BARASA WANANGWE.....DEFENDANT/ RESPONDENT**

**RULING**

The application is dated 30<sup>th</sup> July 2018 and is brought under section 3, 3a and 100 of the Civil Procedure Act and order 45 Rule I of the Civil Procedure Rules 2010 seeking the following orders;

1. That order granted on 21<sup>st</sup> December, 2017 be rectified.
2. That costs be in cause.

It is premised upon the following grounds, that this court issued orders on 21<sup>st</sup> December, 2017. That order No. 2 therein indicated the land in question as BUNGOMA/NDALU/5753. That but the land in question is LR NO. 5753. That this titling process is at an advance stage.

This court has considered the application. The respondent was served but did not oppose the application. The applicant submitted that the suit land in question involved land known as LR. NO. 5753. That the orders granted referred to Land Known as BUNGOMA/NDALU/5753. That this was a mistake. That they now pray for rectification of the order to read LR. NO. 5753. This was a lower court matter which was transferred to this court. It is on record that the suit was withdrawn on the 20<sup>th</sup> December 2017 in the lower court. The same has not been reinstated and this court cannot rectify orders of a lower court file which was withdrawn. I find this application has no merit and I dismiss the same with costs.

It is so ordered.

**DELIVERED, DATED AND SIGNED AT KAKAMEGA IN OPEN COURT THIS 23<sup>RD</sup> DAY OF OCTOBER 2018.**

**N.A. MATHEKA**

**JUDGE**