



**REPUBLIC OF KENYA**

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

**ELC NO. 45 OF 2007**

**SILAS MBURUNG'A MATHIU.....PLAINTIFF**

**JULIUS KIJOGI MATHIU.....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**MATHIU MUGANE.....DEFENDANT**

**RULING**

1. The application dated 31<sup>st</sup> May 2018 seeks the following orders

- (i) That this Honourable court be pleased to order that a survey be conducted on land parcel no. 3210, 3214, 3211, 3213 and 3212 by a surveyor for the purpose of identifying beacons on the parcels of land.
- (ii) That this Honourable court be pleased to order the OCS Kariene police station to avail security during the conduct of the survey.
- (iii) That costs be provided for.

2. The grounds in support of the application are:

- (i) That the execution of judgment delivered by Lady Justice Mbugua in ELC 45 of 2007 dated 19<sup>th</sup> July 2017 has been delayed due to the fact that the parcels of land lack beacons.
- (ii) That the judgment debtors have vehemently opposed any survey of the land and they are hostile.

3. The affidavit dated 31<sup>st</sup> May 2018 by the applicant to support the claim reads as follows:

- (i) That judgment on civil suit no. 45 of 2007 was entered on the 19<sup>th</sup> day of July 2017 in favour of the defendant.
- (ii) That an order of permanent injunction restraining the plaintiff from interfering with parcel no. 3211, 3213, 3212 which parcel were reserved for the defendant and his two daughters was issued.
- (iii) That to execute the judgment land parcel nos. 3210, 3214, 3211, 3213 and 3212 ought to be surveyed for purpose of establishing beacons on the parcels of land.
- (iv) That the judgment debtors have vehemently opposed any conduct of survey on the aforesaid property, and they have become hostile.
- (v) That the decree holder is prejudiced as he is unable to occupy his land.
- (vi) That it is in the best interest of justice that the survey is conducted to execute judgment and identify each parcel of land specifically.

4. When the application came up for inte-partes hearing on 3.10.2018, the respondent's side was directed to file their replying affidavit in the course of the day. None was filed. The application is hence unopposed.

5. Further, it is apparent that the application is geared towards giving effect to the court's judgment delivered on 19.7.2017.

**6. I find that the application is meritorious. The same is allowed with costs to the applicant.**

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 28<sup>TH</sup> NOVEMBER, 2018 IN THE PRESENCE OF:-**

C/A: Kinoti

Kithaka for respondent

Mutegi for applicant

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**