



**REPUBLIC OF KENYA**

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

**MISC. APPL. NO. 52 OF 2014**

**FLORENCE MONICAH MULI .....APPLICANT**

**VERSUS**

**MACHAKOS DISTRICT LAND REGISTRAR .....RESPONDENT**

**JUDGMENT**

1. In her Notice of Motion dated 16<sup>th</sup> June, 2014, the Ex-parte Applicant is seeking for an order of Mandamus to issue compelling the District Land Registrar, Machakos to visit land parcel number Muputi/Kiima Kimwe/3106 to define the precise position of its boundaries with respect to its adjoining parcels of land.

2. The Application is premised on the ground that the Applicant is the owner of the suit property; that the boundaries of the suit property are not precisely defined and that the Applicant is contemplating instituting court proceedings against another proprietor who has caused a road to encroach into her land but cannot do so in view of the provisions of Section 18(2) of the Land Registration Act.

3. Although the Respondent was served with the Motion, he did not file a response.

4. I have considered the detailed submissions by the Ex-parte Applicant's advocate.

5. It is not in dispute that the Applicant is the registered proprietor of Plot No. 3106.

6. It is also not in dispute that the boundaries in respect to parcel of land number Muputi/Kiima Kimwe/3106 are not fixed.

7. Section 18(2) of the Land Registration Act, 2012 provides that the court shall not entertain any action or other proceedings relating to a dispute as to the boundaries of registered land unless the boundaries have been determined in accordance with the Section.

8. Section 19(1) of the Act on the other hand gives the Land Registrar the mandate to fix general boundaries.

9. The only public officer who has the authority to determine the position of boundaries where there is any uncertainty as to the position of the boundary is the Registrar.

10. In the circumstances, I am satisfied that the orders sought in the Notice of Motion dated 16<sup>th</sup> June, 2014 should issue.

11. For those reasons, I allow the Application dated 16<sup>th</sup> June, 2014 in the following terms;

***a. The order of Mandamus be and is hereby issued compelling the District Land Registrar, Machakos to visit land parcel No. Muputi/Kiima Kimwe/3106 to define the precise position of its boundaries with respect to its adjoining parcels.***

***b. There will be no order as to costs.***

**DATED AND DELIVERED AT MACHAKOS THIS 3<sup>RD</sup> DAY OF MARCH, 2017**

**OSCAR A. ANGOTE**

**JUDGE**