



**REPUBLIC OF KENYA**

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

**ELC CASE NO. 207 OF 2013**

**RUITA KABUTU.....PLAINTIFF/APPLICANT**

**VERSUS**

**ANNA WAMBUI ELIZA.....DEFENDANT/RESPONDENT**

**RULING**

On 11th November 2016, this Court delivered its judgment in favour of the Plaintiff/Applicant in the following terms:

- 1. The plaintiff is declared to have become entitled by way of adverse possession for over 12 years to all that parcel of land measuring 5.8 acres comprised in title No. KABARE/NYANGATI/826.***
- 2. The Plaintiff be registered as the sole proprietor of 5.8 acres out of 3.04 Hectares of the said land parcel No. KABARE/NYANGATI/826.***
- 3. The Land Registrar do register the plaintiff as the proprietor of 5.8 acres out of land parcel No. KABARE/NYANGATI/826.***
- 4. Such registration should as much as possible be in accordance to the portion that the plaintiff and his family now occupy.***
- 5. Each party to meet their own costs.***

No appeal has been preferred against that judgment and a decree has been extracted accordingly. The Plaintiff has now filed an application dated 2nd May 2017 in which the following substantive orders are sought:

- 1. Spent.***
- 2. That the Honourable Court do authorize the Deputy Registrar of this Court to execute all the relevant legal documents on behalf of the defendant to facilitate the full execution of the decree.***

That application which is the subject of this ruling is supported by the affidavit of **RUITA KABUTU** the Plaintiff/Applicant herein in which it is deponed, inter alia, that the Defendant/Respondent is not interested in executing the necessary documents to facilitate the partitioning of the land subject of this suit following the decree issued on 3rd November 2016 and from which no appeal has been preferred. I notice from the record herein that on 13th February 2017, the Defendant/Respondent had filed her own Notice of Motion which appears to seek almost similar orders to the ones sought in this application.

However that application is yet to be prosecuted.

The Plaintiff/Applicant's Notice of Motion dated 2nd May 2017 was duly served upon counsel on record for the Defendant/Respondent **MR. IGATI MWAI** on 12th May 2017 but no response has been filed to-date. The application is therefore not opposed.

In the circumstances, the Plaintiff/Applicant's Notice of Motion dated 2nd May 2017 is allowed in the following terms:

***1. The Deputy Registrar of this Court is authorized to execute all the relevant legal documents on behalf of the Defendant/Respondent to facilitate the full execution of the decree herein.***

***2. No order as to costs.***

**B.N. OLAO**

**JUDGE**

**31<sup>ST</sup> MAY, 2017**

Ruling dated, delivered and signed in open Court this 31<sup>st</sup> day of May 2017

Ms Kiragu holding brief for both Mr. Ngangah Advocate and Mr. Mwai Advocate.

**B.N. OLAO**

**JUDGE**

**31<sup>ST</sup> MAY, 2017**