



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT NAKURU**

**HCCC NO. 12 OF 2010**

**SIMON NG'ANG'A NJOROGE .....PLAINTIFF**

**VERSUS**

**DANIEL KINYUA MWANGI .....RESPONDENT**

**RULING**

***(Application to have Deputy Registrar execute transfer forms; judgment entered in favour of the plaintiff; defendant refusing to execute transfer documents; application allowed)***

1. The application before me is that dated 18 December 2015. It is an application filed by the plaintiff and it is seeking the following principal order:-

*That this Honourable Court be pleased to issue an order compelling the Judgment Debtor/Respondent herein to execute all documents in respect of Nyandarua/Kitiri/5558 to the decree holder/applicant to effect his registration as the proprietor of the said parcel of land within such time as this Honourable Court deems fit. In the alternative, this Honourable Court do direct the Deputy Registrar of the High Court to execute all the instruments and/or documents that will be necessary for the purposes of effecting transfer of Nyandarua/Kitiri/5558 from the judgment debtor/respondent to the decree holder/applicant.*

2. This suit was commenced by way of an Originating Summons vide which the plaintiff claimed to be entitled to be registered as the absolute proprietor of the land parcel Nyandarua/Kitiri/5558 by way of adverse possession. The suit was resisted by the defendant and had to proceed for hearing. In a judgment delivered on 30 January 2015, my predecessor, Waithaka LJ, held for the plaintiff.

3. Through this application, the plaintiff has averred that despite the judgment the respondent has failed to transfer the suit property to the plaintiff.

4. The defendant did not file anything to oppose this application. Neither did he, nor his counsel, appear in court during the inter partes hearing of the application. At the hearing of this motion, Mr. Gatonye sought the alternative prayer seeking to have the Deputy Registrar execute the necessary transfer instruments to have the suit property registered in the name of the plaintiff since the defendant has already refused to execute the same.

5. I have considered the application. I have seen that judgment was indeed entered for the applicant. It was held that he is entitled to be declared owner of the suit property. He therefore deserves to be registered as proprietor of the suit land. There is no good reason why the defendant has refused to transfer

the suit property to the plaintiff.

6. I have no reason to deny the plaintiff the prayers sought in this application. I order the Deputy Registrar to forthwith execute all documents and instruments necessary for the transfer of the land parcel Nyandarua/Kitiri/5558 to the plaintiff/applicant. The applicant shall also have the costs of this application.

7. It is so ordered.

**Dated, signed and delivered in open court at Nakuru this 8<sup>th</sup> day of March 2016.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**

**In presence of : -**

Mr Geoffrey Otieno holding brief for Mr.Gatonye for applicant.

No appearance on part of M/s Munene Chege & Co. for respondent.

CA: Janet

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**