



**Zuberi v M’Muguna (Environment & Land Case E004 of 2022)  
[2024] KEELC 3691 (KLR) (14 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 3691 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENT & LAND CASE E004 OF 2022**

**CK YANO, J**

**MARCH 14, 2024**

**BETWEEN**

**SAINA MARIAM ZUBERI ..... PLAINTIFF**

**AND**

**M’MBOGORI M’MUGUNA ..... DEFENDANT**

**RULING**

1. This ruling relates to a Notice of Motion application dated 2<sup>nd</sup> December, 2023, by the plaintiff seeking for an order that the Deputy Registrar of the Court be authorized and directed to execute all necessary documents for the Land Control Board and transfer of LR. No. Ntima/Igoki/1160 to Saina Mariam Zuberi, the plaintiff in place of M’Mbogori M’Muguna the defendant/respondent. The application is brought under Section 28 of the *Civil Procedure Act* and Order 22 rule 6 and Order 51 rule 1 of the *Civil Procedure Rules* and is supported by the affidavit of the Plaintiff sworn on 2<sup>nd</sup> December, 2023.
2. The plaintiff avers that she filed this suit against the defendant who failed to enter appearance and on 15/3/2023, judgment was delivered by the court in favour of the plaintiff. The claim was for adverse possession and the court ordered that the plaintiff be registered as the proprietor of the suit land.
3. The plaintiff avers that in order to effect the transfer the application for consent of the Land Control Board and the transfer have to be signed by the defendant who has not been traced to date. The plaintiff states that without the said documents, the transfer of the land from the defendant to the plaintiff cannot proceed to completion. The plaintiff avers that the defendant has never stepped on the suit land for the last 44 years.
4. I have considered the application, the affidavit in support and the applicable law. The only issue for determination is whether the court should authorize and direct the Deputy Registrar of the Court to execute all the necessary documents as sought in the application herein. In this case, judgment was entered in favour of the plaintiff on 15<sup>th</sup> March, 2023. The Judgment and the decree are to the effect



that the plaintiff herein is entitled to be registered as proprietor of the suit land having acquired the same by way of adverse possession. The court found that the defendant's title over the land had been extinguished. The defendant did not defend the suit and the judgment and decree of this court have not been set aside, reviewed on appeal and therefore still in force. The court has noted that the application herein is seeking order in furtherance of the implementation of the decree herein. There is no order in place staying the execution of the decree herein. It is a principle of law that court orders should not be issued in vain. A successful litigant ought to enjoy the fruits of his/her judgment.

5. Consequently, and in light of the foregoing, I allow the application dated 2<sup>nd</sup> December, 2023 and make the following orders:-
  - a. An order directing The Deputy Registrar to execute all the relevant documents in place of M'Mbogori M'Muguna in terms of prayer 1 of the Notice of Motion.
  - b. The presence of M'mbogori M'Muguna at the Land Control Board at Meru is hereby dispensed with.
  - c. The production of Original title deed in respect of the suit land before the District Land Registrar is hereby dispensed with.
  - d. The expenses arising out of the execution of this decree will be met by the plaintiff /applicant.
  - e. There will be no orders as to costs.
6. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT MERU THIS 14<sup>TH</sup> DAY OF MARCH, 2024**

**HON. C. YANO**

**ELC – JUDGE**

**In the presence of:-**

Court Assistant: Tupet

Nyaga holding brief for Murango Mwenda Applicant

No appearance for Respondent

