



**Mukangu & 3 others v Kiara & another (Environment and Land Case Civil
Suit E010 of 2021) [2024] KEELC 4096 (KLR) (15 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4096 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND CASE CIVIL SUIT E010 OF 2021**

CK NZILI, J

MAY 15, 2024

BETWEEN

**ALCHANJERO KITHINJI MUKANGU 1ST PLAINTIFF
PAUL MURIUKI NYAGA 2ND PLAINTIFF
VASQUALINA NKIROTE 3RD PLAINTIFF
EDWARD MWITI 4TH PLAINTIFF**

AND

**REUBEN RIUNGU KIARA 1ST DEFENDANT
SCHOLASTICA KIENDE CHARLES 2ND DEFENDANT**

RULING

1. The court is asked to direct the County Surveyor Meru to conduct the survey and subdivision of L.R No. Abogeta/Upper-Kiungone/863, pursuant to a decree issued by the court on 18.10.2021 and excise four portions in favor of the plaintiffs.
2. Further, the court is asked to direct the Deputy Registrar of this court to execute all the documents for the exercise as mentioned above and for the transfer of the land to the plaintiffs. The application is based on the grounds on the face of the application and a supporting affidavit by Alchanjero Kithinji Mukangu sworn on 14.2.2024.
3. Briefly, the plaintiffs averred that parties consented on 18.10.2021 to excise 5 acres out of L.R No. Abogeta/U-Kiungone/863 and to share in equal shares, each acquiring one acre of the land. However, the plaintiffs aver that the respondents have become uncooperative, even though they have preferred no appeal against the consent decree, and therefore, it is in the interest of justice to grant the orders sought; otherwise, a year has lapsed despite requests to effect the decree.



4. The application is opposed by a replying affidavit sworn on 21.2.2024 by Reuben Riungu G. Kiara. It is averred that by a letter dated 2.8.2023, annexed as AKM 2 (b) by the applicant, he was frustrated by the slow progress in the preparation and registration of the mutation forms by the land surveyors.
5. The respondents further averred that substantial progress had been made in consummating the consent order dated 31.3.2022 since the parties applied for the divisional land control board consent and obtained the land control board consent. A mutation form was filed and is now awaiting registration by the land surveyor.
6. The respondents annexed the documents as annexures marked RRK "1" – and "3," respectively. The respondents averred that the applicants have all along been aware of the progress so far made and that the land surveyors have made an assurance that within a short period the subdivision process would be complete.
7. The plaintiffs came to this court by a plaint dated 5.3.2021 seeking declaratory orders that L.R No. Abogeta/U-Kiungone/863 was held by the defendant was in trust, excision, and the transfer of half share of the land to them. After entering the appearance, parties filed a consent dated 26.7.2021, which this court adopted as an order on 18.10.2021.
8. A consent order to that effect was extracted and issued on 31.3.2022. The defendants were obligated to apply and obtain land control board consents to cause a survey and a mutation to be registered so as to generate new numbers, cause the new numbers to be registered in favor of the plaintiffs, and transfer and register the new numbers to their intended beneficiaries.
9. The cost of the registration was to be shared pro rata between the plaintiffs, the defendants, and the beneficiaries. The plaintiff now complained that the defendants have been uncooperative and or delayed the execution of the decree and ignored the concerns over the slow process raised by a letter dated 1.8.2023, attached as annexure AKM 2 (a). The respondents, on the other hand, acknowledge the process has been slow and heap the blame, as per annexure AKM 2 (b) on the land surveyors for the delay. They request the applicants to organize fresh mutation forms.
10. From the rival positions taken by the parties, it is apparent that the consent order has not been effected in full. The progress as per annexures marked RRK "1" – "3" is up to a mutation form. It is not clear if it has ever been lodged for registration by the private land surveyors. Parties did not mention before this court, if they honored their obligations by meeting the cost for the subdivisions, survey and registration.
11. Be that as it may, in order to effect the decree, I find the application dated 14.2.2024 meritorious. The same is allowed. Parties shall meet the attendance costs for the subdivision, mutation, and transfers.
12. Orders accordingly.

**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU ON
THIS 15TH DAY OF MAY, 2024**

HON. C K NZILI

JUDGE

In presence of

C.A Kananu

Mwirigi Kaburu for the applicant

Kerubo for respondents

