



**M’Nkanata v Kirima (Being sued as the legal representative of Riria Mboroki - Deceased) (Environmental and Land Originating Summons 61 of 2019) [2024] KEELC 14175 (KLR) (19 June 2024) (Ruling)**

Neutral citation: [2024] KEELC 14175 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS 61 OF 2019**

**CK NZILI, J**

**JUNE 19, 2024**

**BETWEEN**

**PETER KIRUKI M’NKANATA ..... PLAINTIFF**

**AND**

**SABELA NCEKEI KIRIMA (BEING SUED AS THE LEGAL REPRESENTATIVE OF RIRIA MBOROKI - DECEASED) ..... DEFENDANT**

**RULING**

1. The court is asked to review the judgment delivered on 15.3.2023 as regards the acreage from 0.029 ha to 0.35 ha. Of L.R Ntima/Ntakira/763 The grounds are set out on the face of the applications and in the supporting affidavit of Peter Kiruki M’Nkanata. It is stated that the decree cannot be implemented as the area on the ground is more significant than the recorded area in the title deed, which discoveries were made by the district land surveyor who had visited the land to execute the decree.
2. It is a trite law that issues for determination flow from the pleadings and the evidence tendered by parties. In this suit the plaintiff had sought to be declared the owner of 0.29 ha out of L.R No. Ntima/Ntakira/763, measuring 0.58 ha by way of adverse possession, 0.29 ha was what was pleaded and proved.
3. I agree with the contents of the replying affidavit that was sworn by Sabela Ncekei Kirima on 3.4.2024 that adverse possession is about physical possession of the land. The decreed land is as per the pleadings and proof during the hearing. The grounds for review based on new and essential material discovered at execution have no basis.
4. The applicant must have all along known what he was occupying. He pleaded on oath and testified that 0.29 ha. The court cannot, through review, grant him more than he deserves based on a title deed. The upshot is that I find the application lacking merits. The same is dismissed with costs.



**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU ON  
THIS 19<sup>TH</sup> DAY OF JUNE, 2024**

In presence of

C.A Kananu

Plaintiff

Kerubo for the defendant

Mutegi for the plaintiff

**HON. C K NZILI**

**JUDGE**

