



**Wahome v Ngure (Environment & Land Case 146 of 2013)
[2024] KEELC 5948 (KLR) (20 September 2024) (Ruling)**

Neutral citation: [2024] KEELC 5948 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYERI
ENVIRONMENT & LAND CASE 146 OF 2013
JO OLOLA, J
SEPTEMBER 20, 2024**

BETWEEN

SIMON MUTURI WAHOME PLAINTIFF

AND

STANLEY MAINA NGURE DEFENDANT

RULING

1. By the Notice of Motion dated 3rd January 2024, Simon Muturi Wahome (the Applicant) prays for the orders crafted as follows:-
 - b) That this Honourable Court do issue an order prohibiting the Judgment debtor from transferring, leasing or charging LR No Nyeri/Waraza/1922 and prohibiting all persons from taking all benefit (sic) from such purported transfer, lease or charge until the whole decretal amount is paid and until further orders of the court are made;
 - c) That the Respondent/Judgment debtor interest of two (2) acres to be excised from LR No Nyeri/Waraza/1922 being the interest of the Applicant/Judgment creditor herein be sold and the proceeds therefrom, after deductions of the expenses attributed and incidental to such sale or such amount as shall satisfy the decree herein be paid out to the Judgment Creditor;
 - d) That the sale of the said property be conducted by M/s. Green Bells Auctioneers in place of M/s. Chador Auctioneers, Nyeri;
 - e) That the Public Notice and advertisement of the said sale shall be by advertisement in one issue of a daily newspaper having circulation within Nyeri County;
 - f) That the decree holder be authorized to bid for and purchase the said land at the intended public auction; and
 - g) That the costs of this application be awarded to the Applicant.



2. The application is supported by an Affidavit sworn by the Applicant and is premised on the grounds:
 - a) That Judgment was delivered herein on 3rd February 2015 for a monetary debt of Kshs 500,000/=; interest at 20% per annum and costs which remain unsettled to date; and
 - b) That the Applicant was previously represented during the hearing by the firm of C.M. Kingori & Co. Advocates which firm has since delayed the matter with no communication at all.
3. I have carefully perused and considered the application as filed by the Judgment Creditor. Despite being served with the application the Judgment Debtor did not respond thereto.
4. By his application before the court, the judgment Creditor has urged the court to issue an order prohibiting the Judgment Debtor from interfering, leasing or charging all that parcel of land known as Nyeri/Waraza/1922 until such a time that the decretal sum is paid in full. In the main, the Applicant urges the court to allow the said parcel of land to be sold in order to recover the decretal sum which is said to be in the sum of Kshs 1,131,910/=.
5. By failing to file a response to the application, the judgment Debtor has not disputed the fact that he is yet to satisfy the Judgment of this court as delivered on 3rd February 2015.
6. In support of his application, the Applicant has attached a copy of a search certificate dated 23rd November 2023. A perusal of the certificate reveals that indeed LR No Nyeri/Waraza/1922 is registered in the name of the Judgment Debtor.
7. The ordinary principle in law is that a successful party is entitled to the fruits of his Judgment. The Respondent has not denied that he has failed to satisfy the decretal sum as awarded more than 9 years ago.
8. Accordingly I am satisfied that the Motion dated 3rd January 2024 is merited. I allow the same with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NYERI THIS FRIDAY 20TH DAY OF SEPTEMBER, 2024.

In the presence of:

Mr. Simon M. Wahome - the Plaintiff in person.

No appearance for the Defendant.

Court Assistant: Michael

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J. O. OLOLA

JUDGE

