



**Mwangi & another v Kibowen (Environment & Land Case  
299 of 2012) [2024] KEELC 7002 (KLR) (17 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 7002 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIRONMENT & LAND CASE 299 OF 2012  
EO OBAGA, J  
OCTOBER 17, 2024**

**BETWEEN**

**MICHAEL K MWANGI ..... 1<sup>ST</sup> PLAINTIFF**

**ELIUD NJUGUNA MWANGI ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**JOHN KIBIWOT KIBOWEN ..... DEFENDANT**

**RULING**

1. This is a ruling in respect of a Notice of motion dated 19.6.2024 in which the Defendant/Applicant seeks review of the orders of this court given on 2.2.2023. The Applicant contends that when he extracted the orders arising from the orders of 2.2.2023, the same were served upon the Land Registrar and Moiben Land Control Board who could not implement the same as the mutation for parcel number which had resulted from LR No Karuna/Sosian Block 2 (Progressive)/289 namely LR No Karuna/Sosian Block 2/Progressive)/326 had not been registered.
2. The Plaintiffs/Respondent's opposed the Applicant's application based on a replying affidavit sworn on 19/7/2024. The Respondents did not answer to the issues raised by the Applicant's application. They instead dwelt on how there were contradictory reports by the County Surveyor which did not tally with what was on the ground.
3. The Respondents stated that they have preferred an appeal against the ruling which was delivered on 29.10.2020 and that the issues being raised by the Applicant should be dealt with after the appeal is heard.
4. The parties agreed to file written submissions in respect of the application. The Applicant filed the submissions on 6.9.2024. He submitted that the need to review the order of 2.2.2023 is self-evident and does not require one to look at it the second time. Reliance was placed on the case of *CD. Dorman Ltd v Kenya Railways Corporation* (2024) KEELC (KLR) (13 February, 2024) where it was held that the



rectification of an order stems from the fundamental principle that justice is above all since the power to review is exercised to remove an error and not for disturbing finality. If reasoning in the decision is at variance with the clear and simple language in a statute or it suffers from manifest error of the law or if there is an error apparent on the face of the record which is liable to be rectified, the power of review can be exercised.

5. The Respondents filed submissions dated 23.9.2024. They submitted that if the Applicant's application is allowed, their appeal will be rendered nugatory.
6. I have considered the Applicant's application as well as the opposition to the same by the Respondents. I have also considered the submissions by the parties. The only issue for determination is whether the Applicant has shown that there is sufficient reason to grant review. It is important to note that review is only as a result of naming the wrong parcel number. The wrong parcel number was named because there were subdivisions which had been made but the mutations had not been registered. To implement the decree of the court, there has to be the correct parcel number which is the mother title that is Karuna/Sosian Block 2 (progressive)/289. I therefore find that the application is well founded. I allow the same in its entirety.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 17<sup>TH</sup> DAY OF OCTOBER, 2024.**

**E. O. OBAGA**

**JUDGE**

In the virtual presence of;

Mr. Omondi for Mr. Seda for Plaintiff/Respondent.

Court Assistant –Laban

**E. O. OBAGA**

**JUDGE**

**17<sup>TH</sup> OCTOBER, 2024**

