



**Njeru v Njeru (Environment & Land Case 136 of 2013)
[2023] KEELC 16023 (KLR) (28 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 16023 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA
ENVIRONMENT & LAND CASE 136 OF 2013
EC CHERONO, J
FEBRUARY 28, 2023**

BETWEEN

MURAGE NJERU PLAINTIFF

AND

LINUS MBOGO NJERU DEFENDANT

RULING

1. Before me is a Notice of Motion application dated May 25, 2022 seeking the following orders;
 1. That this Honourable Court be pleased to authorize the Deputy Registrar to sign all the necessary documents to facilitate the subdivision of land parcel No Baragwe/Thumaita/526 and transfer (3) acres out of the same to the plaintiff/applicant
 2. That this Honourable court be pleased to allow the land Registrar to dispense with the production of the original Title Deed of land parcel No Baragwe/Thumaita/526, the defendant/respondent's copies of National Identity card, PIN Certificate and passport size photographs and any other documents required during land control board and registration of transfer/Title deeds.
 3. Upon grant of prayers number1 and 2 this Honourable court be pleased to authorize the removal of all restriction and caution lodged on land parcel No Baragwe/Thumaita/526
 4. That the O C S Kianyaga Police Station to provide security during the subdivision exercise.
 5. That the costs of the application be provided for
2. In his affidavit in support of the said application sworn the same date, the Applicant deposed that on or about May 22, 2020, this Honourable gave Judgment in which the suit land parcel No Baragwe/Thumaita/526 was ordered to be subdivided and three (3) acres out of the same be transferred and registered in his name. He further stated that despite the express court order, the



Defendant/Respondent has refused to surrender the original Title Deed and the documents required for subdivision and transfer. The Applicant also stated that owing to the animosity between the parties, security is required during the subdivision exercise.

3. When the application came up for hearing, neither the Respondent nor his Counsel was present. There was also no Grounds of opposition or a Replying affidavit filed in response to the said application. Upon perusing the Affidavit of service by one Godfrey Mune sworn on June 24, 2022, this Honourable Court was satisfied that the firm of Mogusu & Co Advocates for the Respondent was duly served with the hearing Notice. This Honourable Court therefore directed the application to proceed *Ex-parte*.

Analysis and Decision

4. I have considered the Notice of Motion application dated May 25, 2020, the Grounds on the face thereof, the supporting affidavit and the applicable law. It is not in dispute that this Honourable Court delivered Judgment in respect of the suit herein on May 22, 2020. In the impugned Judgment, this Honourable court ordered the subdivision of the suit Land parcel No Baragwe/Thumaita/526 and thereafter transfer and register three acres in the name of Murage Njeru, the Plaintiff who is also the Applicant herein.
5. The Applicant has deposed in his supporting Affidavit that the Defendant/Respondent has refused to surrender the original Title deed and other statutory documents required for the subdivision and transfer of the three acres to himself as ordered by the court.
6. These averments given on oath have not been controverted or challenged as the Defendant/Respondent did not file grounds of opposition or a replying affidavit in response thereto. It is therefore apparent that the Defendant/Respondent is defying the court orders of this Honourable court.
7. This court cannot countenance a party who disobeys its orders which are essential for the maintenance of law and order. It is imperative that court orders are obeyed at all times in order that the authority and dignity of our courts are upheld. This court will not therefore condone deliberate disobedience of its orders
8. In the case of *Hadkinson v Hadkinson* (1952) 2 ALL E.R 567, the court held;

“It is the plain and unqualified obligation of every person against or in respect of whom an order is made by a court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or void”.
9. It is also imperative to note that court orders are not issued in vain and that the law gives them power to ensure that its orders are given effect. In doing so, the courts are given mandate and wide discretion under the law to ensure that its orders, judgments and decrees are enforced, respected and honoured. The converse is that people will take the law into their own hands leading to the law of the jungle.
10. In conclusion, I find that the Notice of Motion application dated May 25, 2020 is meritorious and the same is allowed in the following terms;
 1. The Deputy Registrar of this Honourable court be and is hereby directed to sign all the necessary documents in regard to the subdivision of land parcel No Baragwe/Thumaita/526 and transfer of three (3) acres out of the same to the plaintiff/applicant on behalf of Linus Mbogo Njeru.



2. An order is hereby issued dispensing with the production of the original Title deed to land parcel No Baragwe/Thumaita/526, the defendant/respondent's copies of Identity card, PIN certificate and passport size photographs and any other documents required during land control board, transfer, registration and issuance of Title deeds
3. The consent of the land control board is hereby dispensed with in the aforementioned subdivisions.
4. Upon grant of prayer No 1, 2, & 3 above, this Honourable court hereby authorise the County Land Registrar, Kirinyaga County to remove all cautions and restrictions lodged on land parcel No Baragwe/Thumaita/526
5. That the O C S Kianyaga Police Station to provide security during the subdivision exercise
6. The Respondent/Judgment debtor shall bear the costs of this application.

READ, SIGNED AND DELIVERED VIRTUALLY THIS 28TH FEBRUARY, 2023

HON. E.C CHERONO

ELC JUDGE

In the presence of;

Applicant/Advocate-absent

Respondent/Advocate-absent

