



**Bakari & 2 others v Karandini & 3 others (Environment & Land Case 141 of 2016 & 11 of 2020 (Consolidated)) [2023] KEELC 16606 (KLR) (29 March 2023) (Ruling)**

Neutral citation: [2023] KEELC 16606 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT BUNGOMA**  
**ENVIRONMENT & LAND CASE 141 OF 2016 & 11 OF 2020 (CONSOLIDATED)**  
**EC CHERONO, J**  
**MARCH 29, 2023**

**BETWEEN**

**AMINAH KAGEHA BAKARI ..... 1<sup>ST</sup> PLAINTIFF**

**MWANAISHA MAKOBA BAKARI ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**MARTIN KARANDINI ..... DEFENDANT**

**AS CONSOLIDATED WITH**  
**ENVIRONMENT & LAND CASE 11 OF 2020**

**BETWEEN**

**JOSEPH MARTIN NYONGESA ..... PLAINTIFF**

**AND**

**WASIKE NAMIANYA ..... 1<sup>ST</sup> DEFENDANT**

**AMINAH KAGEHA BAKARI ..... 2<sup>ND</sup> DEFENDANT**

**MWANAISHA MAKOBA BAKARI ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. Vide a Notice of Motion application brought under Certificate of Urgency dated February 17, 2023, the applicant is seeking the following orders;
  - a) (Spent)



- b). That the Honourable court be pleased to authorize and direct the Deputy Registrar of this Court to sign and execute the mutations, application for consent to subdivide, application for consent to transfer and transfer of land on behalf of the plaintiffs herein vesting ownership of 2 acres of land out of land parcel No E Bukusu/S Kanduyi/1208 into the names of Joseph Martin Nyongesa to give effect of the Judgment of Court dated September 19, 2022
  - c). That the costs of this application be provided for.
2. The application I premised on six grounds apparent on the face of the said application and the affidavit of Joseph Martin Nyongesa sworn the same date.
  3. In his affidavit in support of the application, the applicant deposed that after judgment was entered in his favour against the plaintiff for two (2) acres to be excised from land parcel No E Bukusu/S Kanduyi/1208, they subsequently agreed by consent on February 9, 2022 as follows;
    - 1). That the county land surveyor and land Registrar Bungoma to visit the land parcel No E Bukusu/S Kanduyi/1208.
    - 2). The 2 acres being claimed by the defendant will be surveyed and demarcated and registered in the name of the defendant (Joseph Martin Nyongesa) as it appears in ELC No 11 of 2020(O.S)
    - 3). That the defendant Joseph Martin Nyongesa shall meet the costs of the survey.
  4. The applicant further deposed that their land Registrar and the land Surveyor visited the land later and filed the report dated July 13, 2022 in court on July 19, 2022. He further stated that on September 19, 2022, the report and the consent were adopted as judgment of this Honourable Court.
  5. The applicant stated that the plaintiffs are not willing to sign and execute documents to vest ownership of the two acres into his names as directed by the Court.
  6. During the hearing of the application, neither the plaintiffs nor their advocate attended court. After satisfying itself that the plaintiffs were served through their duly appointed Advocates on record, the matter proceeded ex-parte.
  7. I have considered the said Notice of Motion application dated February 17, 2023, the supporting affidavit, the consent order compromising the suit and the decree issued therefrom. It is not in dispute that the parties compromised this suit *vide* a consent agreement entered on February 9, 2022.
  8. It is not also in dispute that pursuant to the compromise agreement referred herein above, the land Registrar and the land surveyor visited the suit property and compiled a report dated July 13, 2022 and filed in court on July 19, 2022. It is not in dispute as well that on September 19, 2022, the report and the consent compromising this suit were adopted as Judgment of this Honourable court.
  9. It is further not in dispute that based on the undisputed facts set out hereinabove, a decree has been drawn requiring the enforcement by this court
  10. Having satisfied myself that the plaintiffs/respondents were duly served through their authorized agent with this application and there being no response thereto, I find the said application unopposed and hereby allow the same as prayed with costs. Orders accordingly.

**READ, SIGNED AND DELIVERED IN THE OPEN COURT AT BUNGOMA THIS 29<sup>TH</sup> MARCH, 2023**

**HON E C CHERONO**

**ELC JUDGE**



**In the presence of;**

**Applicant/Advocate - absent**

**Respondent/Advocate – absent**

**C/A Lusweti**

