



REPUBLIC OF KENYA



**In re Voluntary Discharge of David Muturi Waiganjo from the Trust With
Regards to L.R Number Karai/Karai/10949 (Miscellaneous Application
E040 of 2024) [2024] KEHC 8422 (KLR) (27 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 8422 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MISCELLANEOUS APPLICATION E040 OF 2024**

DO CHEPKWONY, J

JUNE 27, 2024

**IN THE MATTER OF VOLUNTARY DISCHARGE OF DAVID MUTURI WAIGANJO
FROM THE TRUST WITH REGARDS TO L.R NUMBER KARAI/KARAI/10949**

RULING

1. What is before the court for determination is the Notice of Motion application dated 18th March, 2024 which seeks the following orders:
 - a. Spent.
 - b. That this Honourable court be pleased to order the voluntary discharge of David Mutuhi Waiganjo from his trust on behalf of Samuel Waiganjo Kang'ethe, Eric Kungu Nyambura and Antony Muturi Nyambura with regards to L.R Number Karai/Karai/10949.
 - c. This Honourable court be pleased to order that Samuel Waiganjo Kang'ethe, Eric Kungu Nyambura and Antony Muturi Nyambura who have now attained the age of majority to sign transfer documents jointly with Jane Nyakaro Kamau involving the sale and purchase of a portion on L.R Number Karai/karai/10949.
2. The Application is based on the grounds as set out on its face and the Supporting Affidavit of David Muturi Waiganjo sworn on 18th March, 2024. According to the Applicant, the parcel of land known as L.R NUMBER KARAI/KARAI/10949 is registered jointly in equal shares in his name and Jane Nyakaro Kamau as per the copy of the Title Deed. The Applicant states he is registered to hold his share in trust for his minor siblings being Samuel Waiganjo Kang'ethe, Eric Kungu Nyambura and Antony Muturi Nyambura who have since attained the age of majority.
3. It is the Applicant's contention that the parcel of land together with the share of Jane Nyakaro Kamau has already been sold to a purchaser as per the agreement dated 17th November, 2023 whose completion date lapsed on 17th February, 2024. He states that they are unable to transfer the parcel of land to the purchaser unless he is discharged from his fiduciary duties as a Trustee to the Beneficiaries . He



holds that he wishes to voluntarily relinquish his role as a Trustee now that the beneficiaries have already attained the age of majority.

4. The court has considered the Notice of Motion application, the Supporting Affidavit and the annexures therein particularly the Title Deed for the subject parcel of land which, at the Proprietorship Section shows that on 20th December, 2022 the land was registered in the names of Jane Nyakaro Kamau ½ share and David Mutuhi Waiganjo ½ share (to hold in trust for minor siblings namely Samuel Waiganjo Kang'ethe, Eric Kungu Nyambura and Antony Muturi Nyambura.)
5. The court has also considered the land sale agreement and the Deed of Voluntary Discharge of Trust and the contents therein. Of great importance the court has considered the national identity cards for Samuel Waiganjo Kang'ethe Id No. 37032005, Eric Kungu Nyambura ID no. 37667897 And Antony (Anto) Muturi Nyambura ID No. 41128420 which shows that they have attained the age of majority.
6. For that reason, the Court finds that the application has merits and the same is allowed under the following terms:-
 - a. An Order is hereby issued for the voluntary discharge of David Mutuhi Waiganjo from his trust on behalf of Samuel Waiganjo Kang'ethe, Eric Kungu Nyambura And Antony Muturi Nyambura with regards to L.R NUMBER KARAI/KARAI/10949.
 - b. An Order is hereby issued to Samuel Waiganjo Kang'ethe, Eric Kungu Nyambura and Antony Muturi Nyambura who have now attained the age of majority to sign transfer documents jointly with Jane Nyakaro Kamau involving the sale and purchase of a portion on L.R NUMBER KARAI/KARAI/10949.
 - c. There shall no order as to costs.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS ...27TH DAY OF JUNE, 2024.

D.O CHEPKWONY

JUDGE

In the presence of:

Mr. Maleba holding brief for Mr. Irungu counsel for Exparte Applicants.

Court Assistant - Martin

