



Ndonyi v Mohamed & another (Administrators of the Estate of the Late Mohammed Bin Saburi Bajuni) (Environment & Land Case 114 of 2008) [2022] KEELC 3465 (KLR) (27 July 2022) (Ruling)

Neutral citation: [2022] KEELC 3465 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT & LAND CASE 114 OF 2008**

NA MATHEKA, J

JULY 27, 2022

BETWEEN

JOSEPH KUSIVA NDONYI PLAINTIFF

AND

NYANYA BINTI MOHAMED 1ST DEFENDANT

MOHAMMED SABURI 2ND DEFENDANT

**ADMINISTRATORS OF THE ESTATE OF THE LATE MOHAMMED BIN
SABURI BAJUNI**

RULING

1. The application is dated 23rd August 2021 and is brought under Order 51 Rule 1 & 2 of the [Civil Procedure Rules](#) seeking the following orders;
 1. That the size of the land granted to the plaintiff by adverse possession on plot Number MN/11/196 be rectified to 41ft by 100ft and not 393ft by 7ft.
 2. That vesting order be issued vesting the land to the plaintiff.
 3. That the costs of this suit be provided for.
2. It is based on the grounds that the plaintiff was awarded by adverse possession land on Plot Number MN/II/196. That the size of the plot was indicated as 293ft by 7ft which was an error. That the judgment had directed proper survey to be done before title is issued. That the older of adverse possession was on strength of a building on the said had which has been surveyed and established to occupy space of 41ft by 100ft. That the plaintiff would wish the size to be rectified and the land be vested on him.



3. This court has considered the application and the supporting affidavit. The application was served but the respondent did not file any response. This court has perused the court record and indeed finds that Justice Mukunya did enter judgement for the applicant by adverse possession land on Plot Number MN/II/196. That the size of the plot was indicated as 293ft by 7ft. The applicant now states that this was an error and the same should be of 41ft by 100ft. a survey report has been attached by a private surveyor indicating the latter. I find that the application is unchallenged and is merited and I grant the same as prayed.

It is so ordered.

DELIVERED, DATED AND SIGNED AT MOMBASA THIS 27TH DAY OF JULY 2022.

N.A. MATHEKA

JUDGE

