

KENYA / JUDGMENT

Ombati v Onunda [2026]

KEHC 13618 (KLR)

[2026] KEHC 13618 (KLR)

COURT

High Court

BEFORE

PK Rotich

CASE / FILE NUMBER

Civil Suit 20 of 2016

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Ombati v Onunda (Civil Suit 20 of 2016) [2026] KEHC 13618 (KLR) (17 September 2026) (Ruling)
Neutral citation:

[2026] KEHC 13618 (KLR) Republic of Kenya In the High Court at Kisii Civil Suit 20 of 2016 PK Rotich, J September 17, 2026 Between Grace Kwamboka Ombati Plaintiff and Henry Ombati Onunda Defendant

Ruling

1. Before me is the plaintiff's/applicant's Notice of Motion dated 10.2. 2026. In the application the applicant acting in person prays for conservatory order to transfer title from the respondent to herself. 2. The parties herein got married under Gusii Customary Law in 1994 and were blessed with 7 children. Their marriage was, however, dissolved on 8th September, 2016 in Kisii CM Divorce Cause No.7 of 2024. 3. The plaintiff commenced this suit vide a plaint dated 24th November, 2016 seeking distribution of land parcels No. Central Kitutu/mwabundusi/1318 and Central Kitutu/monyerero/847. This Court in its Judgement dated 10th December, 2018 granted the followings reliefs: a. A declaration that Central/kitutu/monyoreara/847 is not matrimonial property. b. A declaration that Central Kitutu/mwabundusi/1318 and the developments made thereon is matrimonial property and the plaintiff is entitled to 40% share c. That the matrimonial property be valued within 90 days and sold thereafter and the proceeds shared equally between the plaintiff and the defendant. The court also ordered that the costs of the valuation be shared equally. d. In the alternative, that either the plaintiff or defendant be at liberty to buy out the share entitlement of the other should they deem fit. e. That each party shall be at liberty to apply for further and other orders. 4. The parties failed to comply with the above orders and on 22.2.2021 the court (A.K.Ndung'u), further ordered that: a. Land parcel Central Kitutu/mwabundusi/1318 be sold by way of private treaty at reserve price in the valuation report filed in court. b. That the registered owner of the subject property Henry Ombati Onunda is ordered to sign and

execute all the necessary documents in the transaction 5. The Court also ordered that the title deed of the suit parcel be kept in the custody of the court. On 13.4.2021, the court, however, ordered release of the title to the plaintiff to facilitate the intended sale. 6. To date, the parties are yet to comply with the orders of the court. Instead, the plaintiff now seeks the transfer of the title of the subject matrimonial property herein from the defendant to herself. This will in effect fundamentally alter the judgement of the court in favour of the plaintiff. This may only be done by way review or appeal. It is, therefore, the court's finding the application before court is frivolous and the same is, therefore, dismissed. It is noted that the plaintiff filed similar application dated 4.5.2021 which was struck out. 7. Since the present application was not opposed, I make no orders as to costs DATED, SIGNED AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS THIS 17 TH DAY OF SEPTEMBER 2026.
HON. P. K. ROTICH JUDGE

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