



**Mururi v Willy & 4 others (Environment and Land Appeal
E115 of 2021) [2023] KEELC 16756 (KLR) (27 March 2023) (Order)**

Neutral citation: [2023] KEELC 16756 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT AND LAND APPEAL E115 OF 2021
BM EBOSO, J
MARCH 27, 2023**

BETWEEN

VERONICA NGITHI MURURI APPELLANT

AND

HANNAH WANGARI WILLY 1ST RESPONDENT

GORRET WAIRUMU WILLY 2ND RESPONDENT

JOSEPH MUCHIRI WAIGARO 3RD RESPONDENT

JAMES KINUTHIA WAIHARO 4TH RESPONDENT

THE LAND REGISTRAR, THIKA 5TH RESPONDENT

ORDER

1. While preparing to write a Judgment in this Appeal, it has emerged that on February 16, 2022, this court (Eboso J) rendered a ruling in Thika ELC Petition No E004 of 2021 through which the court struck out the Petition on the ground that this court was not the proper forum where to ventilate the grievances that were raised in the petition. The court further found that the petition was an abuse of the due process of the court.
2. It has also emerged that one Meshack Kariuki Gichuru filed and prosecuted Thika ELC Petition No E004 of 2021 as an attorney of Veronica Ngithi Muiruri who is the appellant in this appeal. Further, it has emerged from a reading of the proceedings of the trial court that although the suit giving rise to this appeal was filed in the name of Veronica Ngithi Muiruri, the witness who prosecuted the claim was Meshack Kariuki Gichuhi who testified as PW1 and as a duly appointed attorney of Veronica Ngithi Muiruri.
3. A perusal of Thika ELC Petition No E004 of 2021 reveals that after this court rendered its ruling on February 16, 2022, Meshack Kariuki Gichuru (as an attorney of Veronica Ngithi Muiruri) brought an



application dated March 21, 2022, seeking a review of the said ruling. This court (Eboso J) disposed the application through a ruling dated February 1, 2023 in which the court found that the application for review lacked merit and dismissed it.

4. Given the above background, and given that this appeal was wholly canvassed through written submissions, this court (Eboso J) is of the view that this appeal which challenges the merits of the Judgment rendered in Ruiru SPMC Environment and Land Case No 103 of 2019 should be disposed by a court other than Thika ELC Court 1 (Eboso J).
5. The court regrets that the above factual background was not brought to the attention of the court at the time of admitting the appeal in July 2022 and at the time of reserving a date for Judgment.
6. Consequently, the order reserving a date for Judgment in this appeal is vacated and it is ordered that this appeal be listed for mention before Thika ELC Court 2 for disposal directions.

DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA ON THIS 27TH DAY OF MARCH 2023

B M EBOSO

JUDGE

In the Presence of: -

Ms Njihia for the respondent

Mr. Kinyua for the appellant

