



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

MISC ELC NO 10 OF 2017

GEORGE KIOGORA.....APPLICANT

VERSUS

M'MUGAMBI M'RINGERA & 5 OTHERS.....RESPONDENT

RULING

1. The application dated 10.4.2017 seeks the following orders:

- (i) For the court to give directions on how the applicant's Appeal No. 113 of 2009 filed before the disbanded eastern provincial land disputes appeal committee will be heard and determined in terms of sections 30 and 31 of Environment and Land court Act.
- (ii) That meanwhile this court be pleased to stay further proceedings in Meru CMC LDT case No. 52 of 2009.
- (iii) That costs of this application be provided for.

2. The application is supported by the grounds on the face of the application and on the supporting affidavit of the applicant.

3. I have seen annexure GK iv, v and vi which are documents indicating that applicant did lodge an appeal with the land disputes tribunal.

4. The 1st respondent has sworn an affidavit on behalf of the other respondents. Nowhere in that replying affidavit do the respondents dispute the lodging of this appeal. What they aver is that the tribunal award was brought before the magistrate's court for adoption and execution. Execution stalled because applicant herein was not ready to sign the necessary documents.

5. The application was to be heard by way of submissions which submissions have duly been filed by the applicant but not by the respondent.

6. Since the provincial appeals Land disputes committee is no longer in existence then this court is the proper forum to hear the matter. Considering that the award has not yet been implemented, then it is fair and just that the appeal be heard on its merits.

7. I therefore allow the application of 21.11.2017 in the following terms;

- (i) It is hereby ordered that the appeal no. 113 of 2009 in the eastern provincial land disputes appeal committee is to be heard and determined before this court.
- (ii) A stay of further proceedings in Meru CMC 2 DT case No. 52 of 2009 is hereby issued.
- (iii) No orders as to costs.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 23RD DAY OF MAY, 2018 IN THE PRESENCE OF:-

Court Assistant: Janet/Galgalo

Munga for applicant present

Gikunda for respondent absent

Applicant present

Respondent absent

HON. LUCY. N. MBUGUA

ELC JUDGE