



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**

**AT MERU**

**JUDICIAL REVIEW APPLICATION NO. 18 OF 2016**

**NTARAGWI M'IKIARA.....APPLICANT**

**VERSUS**

**COUNTY GOVERNMENT OF MERU.....RESPONDENT**

**JACKSON MUNYUA MUTUERA.....INTERESTED PARTY**

**R U L I N G**

On 09.10.17, this matter was coming for directions when Mr. Kioga, Counsel for Ex-Parte Applicant informed the Court that he wished to cross examine the person known as Bikuri in respect of the latter's affidavit. Mr. Bikuri had sworn the affidavit for and on behalf of the Respondent (County Government of Meru).

I Mr. E. Kimathi for the Respondent had objected to this prayer averring that the deponent has since left the service of the Respondent. He also averred that the affidavit is in tandem with the documents, and there was no need to cross examine this deponent.

Mr. M. Kariuki avers that this being a Judicial Review Motion, the concern is on the process and not merits of a decision and that the issue of ownership of the land is being dealt with in case No. 202/1995 . He therefore states that there is no basis of having cross examination upon Mr. Bikuri.

A perusal of the affidavit of Martin Bikuri sworn on 22.05.17, indicates that the deponent was the County Executive member for the department of lands, ICT and Planning in Meru County Government. He therefore swore the affidavit in his official capacity.

It follows that even if he is no longer in service of Respondent, the office he was representing is still there.

An affidavit is an affirmation that the contents thereof are truthful. It is the deponent making that affirmation and therefore, other parties cannot be the ones to confirm the truth in the affidavit,

I therefore decline to uphold the objection raised by the Respondent and the Interested Parties.

I direct that the deponent Martin Bikuri or the current County Executive Committee member in the relevant department of the County attends Court on a date agreed upon by the parties for purposes of being cross examined on the contents of the affidavit of Martin Bikuri.

**DELIVERED, SIGNED AND DATED IN OPEN COURT AT MERU THIS 18<sup>TH</sup> OCTOBER, 2017  
IN THE PRESENCE OF:-**

CA: Janet

Kaimba for Interested Party present

Gatari H/B E.Kimathi for Respondent present

Kithinji H/B for Kioga for Ex-Applicant

**HON. L.N. MBUGUA**

**ELC JUDGE**