

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

PETITION NO.51 OF 2012

SERAH NYAMBURA.....PETITIONER

-VERSUS-

SAMSON GITHURA GACHUHI.....RESPONDENT

RULING

1. The application before me has been filed by the respondent in the petition. He seeks orders that the petition be dismissed for want of prosecution. The application is supported by the affidavit of **Samson Githura Gachuhi**. It is opposed though there is on record a replying affidavit sworn by **Serah Nyambura**, the petitioner. On record also are submissions filed by the applicant.

2. When I retired to consider the application however, it came to my attention that the petition in question was a land matter and had therefore been wrongly filed in the High Court. My perusal of the file shows that the petitioner was seeking a raft of declarations including cancellation of titles said to have been irregularly acquired. There is on record also a ruling issued by the Land & Environment Court on an earlier application for conservatory orders. This information had not been disclosed to the court when it issued directions for the present application to proceed before it.

3. In view of the provisions of **Article 162 (2) (b)** and **165 (5) (b)** of the Constitution and **Section 13 (1)** and **2** of the Land & Environment Act, I hold that this court has no jurisdiction to entertain both the petition and the present application. I therefore decline to consider the application on merits and direct that the matter be placed before any judge of the Land & Environment Court for appropriate directions.

Orders accordingly.

Ruling delivered, dated and signed in open court

This 14th day of December 2017

.....

R. LAGAT KORIR

JUDGE

In the presence of:

C/A Emojong

N/A for petitioner

N/A for respondent