



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

CIVIL SUIT NO 135 OF 2009 (OS)

JOSEPH MUTHURI IKUNYUA.....PLAINTIFF

VERSUS

JAMES MWITERI KINYUA & 3 OTHERS.....DEFENDANT

R U L I N G

This Application is dated 1st February, 2016. It seeks orders that:-

1. ***This Honourable Court be pleased to grant an order to dismiss all applications filed herein by Respondent/Defendant and others for want of delay and want of fraud (sic) of land parcel NO. NTIMA/IGOKI/5219.***
2. ***Costs on the cause***

It has the following grounds:-

- a. ***The Respondent/Defendants are being taken by tradition believe (sic) can defeat the cause of justice by delaying tactics of filing applications.***
- b. ***The Respondent/Defendant and others are acting against the wishes of the deceased M'Ikunyua who was the registered owner of land parcel No. NTIMA/IGOKI/5219.***
- c. ***The Respondent /Defendant and other are conspiring deprive (sic) the Applicant/Plaintiff Land parcel No. NTIMA/IGOKI/5219 by abuse of Court process.***
- d. ***Which application is supported by sworn affidavit of Joseph Muthuri Ikunyua of P.O Box 2211 Meru with the nature of the case (sic).***

The Application was heard inter partes on 16/02/2016. The applicant wanted all applications in this suit dismissed for want of prosecution. However in his Certificate in support of the urgency he said that the Respondents wanted to evict him.

Mr. Muriithi for the Respondents told the Court that the application amounted to abuse of the Court process as except for his Preliminary Objection there were no pending applications. He prayed for dismissal of the application.

I have considered the averments and the Submissions. I find it necessary to have all issues in this suit heard and determined. **I, therefore, dismiss the application.**

Costs to be in the cause.

Delivered in Open Court at Meru this 17th day of February, 2016 in the presence of:-

CC: Daniel/ Lilian

Joseph Muthuri for Plaintiff

Muriithi for Defendants

P. M. NJOROGE

JUDGE