



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT BUNGOMA.**  
**MISCELLANEOUS CIVIL APPLICATION NO. 3 OF 2016.**

**THE SCHOOL MANAGEMENT COMMITTEE**

**MUJI FYM PRIMARY SCHOOL.....APPLICANT.**

**VERSUS.**

**(1). ZAIDA NAMAREOME KHAMISI TORI**

**(2). MUSA WANYONYI TORRY**

**(3). WEKESA TORI OMARY**

**(4). SHARRIF SHABAN**

**(5). MUHAMED NYONGESA**

**(All Sued as Registered Owners of Land Parcel**

**No. NDIVISI/MUCHI/8488).....RESPONDENTS**

**RULING.**

[1]. The applicants have filed the notice of Motion dated 21/12/2015 brought under Section 1A, 1B, 3A of the Civil Procedure Rules and Section 18 and 19 of the Land Registration Act 2012 and Order 51 Rule 1 of the Civil Procedure Rules 2010.

[2]. The Plaintiffs pray for orders that the County Land Registrar Bungoma and County Surveyor Bungoma do visit Land Parcels Ndivisi/Muchi/1365 and Ndivisi/Muchi/8488 owed by the Respondents. That the Respondents be restrained from interfering with the said exercise and also not to interfere with the established boundary, the application is supported by the affidavit of James Situma the Secretary of the School Management Committee of Muji FYM Primary School.

[3]. The application is self explanatory. The Respondents were served and they filed their appearance on 10/02/2016. This application was fixed for hearing by the applicants in the Court Registry on 6/5/2016 Exparte for hearing on 4/7/2016. They were supposed to serve the respondents on 4/7/2016, the case was again fixed for hearing in the registry for 25/7/2016.

[4]. On 25/7/2016 Mr. Murunga, who appeared for Mr. Wamalwa for the applicant appeared and no one else appeared. He asked the Court to determine the case on documents on record and be relied on the Affidavit on record. I gave a ruling date for 29/7/2016.

[5]. On perusal of the Court file I note that the respondents were not served to come to Court on any date. I am therefore unable to grant the orders sought as the respondents were unaware of the hearing dates.

[6]. The application shall be served and the same heard on merits.

Dated, signed and delivered at Bungoma this 28<sup>th</sup> day of July 2016.

**S.MUKUNYA - JUDGE**

**In presence of**

Glady – Court Assistant

Wabwire – for the Attorney General