



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
MISC. APPLICATION NO. 18 OF 2013
IN THE MATTER OF THE WATER ACT, 2002
AND
IN THE MATTER OF THE WATER APPEALS BOARD RULES, 2007
AND
IN THE MATTER OF AN APPLICATION FOR FILING, ADOPTION AND
ENFORCEMENT OF THE AWARD OF THE WATER APPEAL BOARD
IN APPEAL NO 3(W.S) OF 2008 DATED 2ND MARCH, 2012
HON. BABEERE M'MBIJIWE.....APPLICANT
VERSUS
TANA WATER SERVICES BOARD.....1ST RESPONDENT
COUNTY GOVERNMENT OF MERU.....2ND RESPONDENT
MERU WATER & SEWERAGE
SERVICES REGISTERED TRUSTEES.....3R RESPONDENT
R U L I N G

This application is dated 14th July, 2015 and seeks orders:

- 1. THAT the COUNTY GOVERNMENT OF MERU be substituted as the 2nd Respondent herein in place of the MUNICIPAL COUNCIL OF MERU as per DRAFT AMENDED NOTICE OF MOTION attached hereto and marked "A".***
- 2. THAT the Court do make such further orders as it deems appropriate in the circumstances.***
- 3. THAT the costs of this application be provided for.***

It is supported by the affidavit of the applicant, Hon. Kabeere M'Mbijiwe and has the following grounds.

- 1. That the Municipal Council of Meru ceased to exist after the 2013 elections.**
- 2. That the County Government of Meru is the legal successor of the defunct Municipal Council of Meru, the 2nd Respondent herein.**
- 3. The award made against the Municipal Council of Meru cannot be enforced against a non-existent entity.**
- 4. It is fit and proper to substitute the Municipal Council of Meru with the County Government of Meru as the 2nd Respondent.**
- 5. It is in the interests of justice that the orders sought be allowed as the same will not prejudice the Respondents.**
- 6. Unless this is done the Applicant's award against the 2nd Respondent will be rendered nugatory.**

On 22nd July, 2015, the parties, by consent, asked the Court to allow the application. The application is merely facilitative and seeks to substitute the defunct Municipal Council of Meru with the County Government of Meru, so that the pleadings can accord with the new Constitutional dispensation spawned by the Constitution of Kenya 2015. I allow the application.

I direct as follows:

- 1. The applicant to file and serve the amended pleadings within 14 days.**
- 2. Hearing of the Main application dated 28.3.2013 on 8.10.2015.**

Delivered in open Court at Meru this 22nd day of July, 2015

CC: Lilian/Daniel

Lutta for the Applicant

Nyamu Nyaga holding brief for Gatari Ringera for 2nd Respondent

Thangicia for 3rd Respondent

P. M. NJOROGE

JUDGE