REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

MISC APPLICATION 69 OF 2013

HARRIET N'THIRA M'RUTERE.....PLAINTIFF/APPLICANT

VERSUS

STEPHEN GITONGA.....1ST DEFENDANT/RESPONDENT

SILAS KIMATHI KIUMBE.....2ND DEFENDANT/RESPONDENT

R U L I N G

This application is dated 24th September, 2013 and seeks orders:

1. That this honourable court be pleased to order the withdrawal of CM 369 of 2010 at Meru and Order it to be transferred to the Environment and Land Court for hearing and disposal.

2. That costs of this application do abide the outcome of the main suit.

Mr. Gikunda, the plaintiff's advocate seeks time to file a valuation report. In the plaint filed at the Chief Magistrate's court, the two agreements mentioned amount to about Kshs, 700,000/-. In his application, the plaintiff states that all parties are in agreement that the value of the subject matter exceeds the pecuniary jurisdiction of the Chief Magistrate. The defendants vehemently deny this assertion and insist that suit No. CM 369 of 2010 at Meru should be heard by the lower court.

The overiding objective of this court is to facilitate the just, expeditious, proportionate and accessible resolution of disputes. It is clear that one of the grounds supporting the application has been denied by the parties who it is claimed were in agreement therewith.

In the circumstances, I dismiss the application. Costs shall be in the Main cause in the lower court. CM 369 of 2010 should be heard and determined in the lower court.

It is so ordered..

Delivered in Open Court at Meru this 1st day of April, 2014 in the presence of:

Miss E. G. Mwangi for 1st Respondent

Miss Thibaru for 2nd Respondent

Otieno h/b Gikunda Anampiu for Plaintiff.

P. M. NJOROGE

JUDGE