



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
CIVIL APPEAL NO. 120 OF 2009

ISAAC SAMUEL KIRIAMBURI.....APPLICANT

VERSUS

JAMES KIRITU M'ITUERANDU.....RESPONDENT

R U L I N G

This application is dated 5th August, 2014, and seeks orders:

1. **THAT this application be certified as urgent and be heard ex parte during the current vacation of the High Court.**
2. **THAT this honourable court be pleased to grant the applicant leave to appeal from its ruling dated 27.5.2014.**
3. **THAT the leave so granted do operate as as stay of the orders of Maua CMCC No. 67 of 2009.**
4. **THAT the costs for and incidental to this application be costs in the intended appeal.**

It is based on the following grounds:

1. **THAT the ruling in H.C.C.A. No. 120 of 2009 was read without the knowledge of the applicant and his advocate.**
2. **THAT the appellant's advocate came to know of the ruling after he was served with a Notice of Taxation in Meru H.C.C.A No. 120 of 2009.**
3. **THAT the applicant is desirous of filing the intended appeal to protect his interests in the suit land.**
4. **THAT the respondent will not suffer any prejudice if this application is allowed.**

Mr. Manases Kariuki holding brief for Mr. B. G. Kariuki for the applicant told the court that he was relying on the grounds on the face of the application and on the supporting affidavit of the applicant.

I note that ground 1 of the application is that the ruling in H.C.C.A No.120 of 2009 was read without the knowledge of the applicant and his advocate. Ground 2 states that the applicant's advocate came to know of the ruling after he was served with Notice of Taxation in Meru HCCA No.120 of 2009. On 27.2.2014, Mr. B. G. Kariuki, for the Appellant, orally argued the Appellant's case. Mr. Ngunjiri for the respondent

confuted his arguments. In the presence of both advocates, the Court fixed the date for delivery of the Ruling in the appeal as 27.5.2014. The attempted contrivance by Mr. B. G. Kariuki for the appellant, who is the applicant herein, that he was all along unaware of the ruling has no basis at all.

In the circumstances the application dated 5th August, 2014 is **DISMISSED** with no order as to costs.

It is so ordered.

Delivered in Open Court at Meru this 13th day of August, 2014 in the presence of:

Cc. Daniel/Lilian

Manases Kariuki h/b B. G. Kariuki for the applicant

P. M. NJOROGE

JUDGE