



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & ADMIRALTY DIVISION

CIVIL CASE NO. 478 OF 1998 & 258 OF 2010

NATIONAL BANK OF KENYA LTD. :::::::::::::::::::: PLAINTIFF

-VERSUS-

FOURSOME DEVELOPERS LTD. :::::::::::::::::::: DEFENDANT

RULING ON DIRECTION

1. There are several applications in the two causes before the court being HCCC No. 258 of 2010 and HCCC No. 478 of 1998. Dr. Kamau Kuria acting for the Plaintiff has brought the following applications:-

i. Notice of Motion dated 28th July 2014 in HCCC No. 258 of 2010. This application seeks to amend the Plaintiff to bring in two more Defendants to be called 3rd and 4th Defendants.

ii. Notice of Motion application dated 28th July 2014 in HCCC NO. 478/1998 which is amended by Notice of Motion amended on 3rd September 2014. This application seeks to join the Plaintiffs of HCCC No. 258 of 2010 to HCCC NO. 478 of 1998, and also to bring in four other Defendants. It seeks several other orders including an order for the consolidation of these two suits.

iii. Notice of Motion dated 29th August 2014 in HCCC No. 258 of 2010 which is almost in similar prayer terms as that of 28th July 2014, in HCCC No. 478 of 1998.

iv. Notice of Motion dated 20th May 2014 seeking to join representation of the deceased Plaintiff to the suit in HCCC NO. 478 of 1998.

2. All above applications are by the Plaintiffs. They are causing confusion, and it is important for the Applicant to consolidate all those applications into one and proceed in a clear manner devoid of any confusion. Secondly, it is upon Dr. Kuria to decide which applications shall be heard in priority, if they cannot be consolidated.

3. The other applications on file include:-

i. Notice of Motion dated 3rd July 2014 in HCCC No. 258 of 2010 by the 2nd Defendant. It seeks to amend the Defence. I do not know its status.

ii. Notice of Motion dated 13th October 2014 by the 2nd Defendant seeking that Amended Plaintiff dated 12th November 2011 be struck out.

4. There is a further application dated 5th September 2012. I do not know its status.

5. It is upon Dr. Kuria to inform the court how he intends to proceed with his four applications all which appear quite related or repetitive in prayers.

Orders accordingly.

DATED, READ AND DELIVERED AT NAIROBI

THIS 28TH DAY OF OCTOBER 2014

E. K. O. OGOLA

JUDGE

PRESENT:

Dr. Kuria for the Applicant

Odhiambo for the 1st Plaintiff

Washe for the Kamuthi Housing Cooperative Society

M/s Lugonzo holding brief for Ng'ang'a for the 1st Interested Party

Kethi Kilonzo for Dovecourt ltd.

Otieno holding brief for Wayeshi for Shaba Investments Ltd.

Muhndi holding brief for Odwor for K-rep Bank Ltd.

Irene – Court Clerk