



**REPUBLIC OF KENYA**

**High Court at Nakuru**

**Environmental & Land Case 23 of 2012**

**NAIVASHA QUARRY PROJECT LIMITED.....PLAINATIFF**

**VERSUS**

**KENYA WILDLIFE SERVICE.....DEFENDANT**

**RULING**

This is an application by Notice of Motion dated 12<sup>th</sup> November 2012. The applicant seeks exparte orders that there be a stay of further proceedings pending hearing and determination of the application: That this suit be transferred to the Environment and Land Court, Nairobi for hearing and final determination.

The application is premised on the grounds that the plaintiff's members in the year 2001, threatened the Defendant's counsel and employees with violence and or physical injury. Again on 28<sup>th</sup> June 2012, the plaintiffs members acted very aggressively against the Defendants officers: That in the interests of safety of the defendants counsel, and its officers and witnesses that this suit be transferred to the Environment and Land Court, Nairobi for hearing and final disposal.

In the affidavit sworn by Patrick Lutta, counsel for the Defendant, he depones that he represents the Defendant in several matters, some in Naivasha. In 2001, after attending the hearing of SRMCC 290 of 2000 and upon trying to effect service to the plaintiffs in their offices within Naivasha town, in the company of police escort and Mr Muriuki a security officer of the Defendant, the plaintiffs members threatened to lynch and set their vehicle ablaze but were restrained by the police officers who had accompanied them. They warned the deponent not to interfere with issues relating to the suit property. That in or about 28<sup>th</sup> June 2012, the plaintiff members again became very aggressive towards the Defendants officers until the police had to be called in. That the deponent fears for his safety by travelling from Nairobi to Nakuru and back to attend to this matter.

I have read the pleadings carefully and also consulted widely. This is a matter that is within the terminal jurisdiction of the Nakuru Environment and Land Court. The issues raised by the counsel for the defendant on his security and that of the Defendants are very serious officers and should be reported and dealt with by the police immediately.

It would be premature at this stage to determine whether the suit should be heard and determined in Nakuru or Nairobi. The plaintiff/Respondent needs to be brought on board first.

I order as follows:-

**1.The application is certified urgent**

**2.The application to be served upon the plaintiff/Respondent for interpartes hearing on 21<sup>st</sup> May 2013**

**3.Costs to be in the cause**

**Dated signed and delivered this 15<sup>th</sup> day of March 2013.**

**L N WAITHAKA  
JUDGE**

**Present**

**Mr Maruti for the applicants**

**Stephen Mwangi Court Clerk**

**L N WAITHAKA  
JUDGE**