



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL DIVISION**

**CIVIL CASE NO. 215 OF 2008**

**MARIA LWANDE & 66 OTHERS.....PLAINTIFFS**

**VERSUS**

**THE REGISTERED TRUSTEES OF**

**TELPOSTA PENSION SCHEME.....DEFENDANT**

**D I R E C T I O N S**

1. In this suit the Plaintiffs seek against the 1<sup>st</sup> Defendant the main relief of orders of **specific performance** of their respective **sale agreements** in respect to various **houses** situated in Nairobi. They also seek related orders. It appears that at some point the 2<sup>nd</sup> Defendant was joined in the proceedings. It is not apparent from the record if the plaint was amended following this addition of a defendant.

2. I cannot find on the record any defence filed by the 1<sup>st</sup> or 2<sup>nd</sup> Defendant. But there may be other volumes of this file not before me now. There are three volumes before me: one volume is marked 'Vol. 1', another one 'Vol. 7', while the third volume is not marked.

3. The suit was filed in the **ELC Division** of the High Court because that is where it belonged. It is not clear from the court record how the suit ended up in this **Civil Division**.

4. Be that as it may, this suit clearly does not belong to the High Court in view of **Articles 162(2) and 165(5)** of the **Constitution of Kenya, 2010** and associated legislation. The suit involves title to the suit lands the subject-matters of the suit. The 1<sup>st</sup> Defendant has claimed that the Plaintiffs are its tenants in the suit premises, and that is why it filed the **notice of motion dated 25<sup>th</sup> October 2012** which I heard on 9<sup>th</sup> July 2013, and which was to come up for ruling today. But even if the Plaintiffs were the 1<sup>st</sup> Defendant's tenants in the suit properties, I have since held in a **considered ruling dated 17<sup>th</sup> and delivered on 20<sup>th</sup> September 2013** in **Nairobi HCCC No. 171 of 2013 (Civil Division), James Moses Thanu & Others – vs – Joseph M Muiruri (Unreported)** that landlord and tenant disputes involve interests in land and that the High Court no longer has jurisdiction to hear and determine such disputes. They belong in the **Environment and Land Court**.

5. In these circumstances, I cannot render a ruling upon the notice of motion dated 25<sup>th</sup> October 2012. This case is hereby transferred to the **Environment and Land Court** for disposal. Costs will be in the cause. It is so ordered.

**DATED AND SIGNED AT NAIROBI THIS 24<sup>TH</sup> DAY OF OCTOBER 2013**

**H. P. G. WAWERU**

**JUDGE**

**DELIVERED AT NAIROBI THIS 25<sup>TH</sup> DAY OF OCTOBER 2013**