



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 1637 of 2007**

**THE REGISTERED TRUSTEES OF  
THE AGRICULTURAL SOCIETY OF KENYA ..... APPLICANT**

**VERSUS**

**MERU GOLF COURSE LIMITED..... 1<sup>ST</sup> DEFENDANT**

**THE HON. ATTORNEY GENERAL ..... 2<sup>ND</sup> DEFENDANT**

**MERU PUBLIC GOLF COURSE ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

**APPLICATION TO ENLARGE TIME TO FILE**

**REPLY TO DEFENCE AND COUNTER CLAIM**

**22MARCH 2007**

**1. BACKGROUND**

1. The original suit involves LR20888 being 40.47 hectares of land or 100 Acres that had been taken from the upper Imenti forest and carried out some time in 1981 to 1983. This land was allegedly given to the Agriculture Society of Kenya. They allegedly took possession and continued to hold shows.

2. On the Narc Government coming to power in the year 2003, the Chief Conservation of forest allocated to the Meru Golf Course Ltd and the Meru Pubic Golf Course the said land which they took possession to construct a golf course.

3. The Agriculture society of Kenya filed suit in 2005. The 1<sup>st</sup> and 3<sup>rd</sup> defendant the said Public Golf Course filed defence and counter claim. The 2<sup>nd</sup> defendant the Attorney General did appear to court and filed defencne.

4. In October 2006 the 16<sup>th</sup> the said defendant 1 and 3 applied for this suit to be dismissed and or struck out for lack of locus. The application has not been heard.

5. On 22 March 2007 the plaintiff filed an application for leave to file a reply to the defence and to

the counter-claim out of time.

6. Under section 6 of the Civil Procedure Act the application of 16.10.2006 ought to have been heard first. This anomaly would have been noticed if a call over had been made. The call over for May 2005 was not done under the Division.

7. The application before me therefore and subject of this ruling is 22 March 2007.

### **Application of 22 March 2007**

8. The applicant plaintiff states the advocate made a mistake. This mistake should not be visited upon the plaintiff/applicant – the client.

9. They now pray for enlargement of time to file a reply to the defence and counter-claim.

10. In reply the defendant 1 and 3 object and state that the law ought to have been followed.

### **III: Opinion**

11. I would find that the plaintiff/applicant should be given leave to file and service their said reply and reply to counter claim out of time. The reasons being that a mistake of an advocate should not be visited on the client. That this be done within 14 days of today's date.

12. The advocate for plaintiff nonetheless will pay the throw away costs personally assessed at Ksh.5,000/- to defendant 1 and 3 Ksh.1,000/- to defendant No.2.

13. Dated this 8<sup>th</sup> day of May 2008 at Nairobi.

**M.A. ANG'AWA**

**JUDGE**

N.K. Selim instructed by N.K. Selim & Co. Advocates for the plaintiff

A. Kinuthai instructed by G.K. Meenye & Co. Advocates for the 3<sup>rd</sup> defendant/respondents – present

B.M. Chahale for the Attorney General for the 2<sup>nd</sup> defendant/Respondent - present