

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

CIVIL CASE NO.125 OF 2001

MWAJUMA CHERONO ASMAN ::: PLAINTIFF

VERSUS

THE COMMISSIONER OF LANDS & 3 OTHERS ::: DEFENDANT

R U L I N G

This is an application dated 4th February 2002 and filed on 15th February 2002. The application was brought under Order XXIII Rule 3 and 12 Civil Procedure Rules and Section 3 and 3A of the Civil Procedure Act. It was brought under certificate of urgency then, but interestingly it came for hearing on 23rd March 2004 more than two years after it was filed.

The application seeks for orders that Fairuz Jepkorir, the legal representative of the plaintiff, be made a party to the suit and secondly that the interim orders that lapsed on 18th September 2001 be re-instated. The application also seeks for costs. The application is supported by an affidavit sworn by the applicant Fairuz Jepkorir on 5th February 2002. The application was heard ex-parte because the Advocates for respondents received service of the hearing notice under protest indicating

that they had not received instructions and were going to apply to withdraw from representing their clients.

On my part, having considered the application and supporting affidavit, I grant orders that the applicant Fairuz Jepkorir, who was appointed administrator of the plaintiff's estate on 21st January 2002 be made a party to the suit. This I do in the interest of justice, to enable parties to be heard and a decision made on merits of the case. However, at this stage, I decline to reinstate the interim court orders that lapsed on 18th September 2001. The intervening period has been quite long. The applicant is at liberty to apply specifically for the reinstatement of the interim orders and serve notice on the concerned parties for the application to be heard between all interested parties. Costs in the cause.

Dated and delivered at Eldoret this 27th day of April 2004.

George Dulu

Judge

Delivered in the presence of :- Otieno for Applicant

(I certify this a true copy of the Original)

DEPUTY REGISTRAR