



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 70 OF 2012

GEORGE GATEMBU (Suing as Legal representative of the estate of

JOSEPH MUGUNA – Deceased).....PLAINTIFF/RESPONDENT

VERSUS

ELIJAH MUTEGI M’RWITO.....1ST DEFENDANT

M’MUGAMBI M’MARETE.....2ND DEFENDANT

HENRY KIAMBI.....3RD DEFENDANT

JAPHET GAKURU M’ABURIA.....4TH DEFENDANT

SHEDRACK KIRUKI M’LAARIA.....5TH DEFENDANT/APPLICANT

M’KIRERA M’ANGARE.....6TH DEFENDANT

RUFA M’ARIGO.....7TH DEFENDANT

FRANCIS M’IKIUGU M’MUTHURI.....8TH DEFENDANT

JOSPHAT MURIUKI KIURA.....9TH DEFENDANT

FREDRICK KIOGORA GITONGA.....10TH DEFENDANT

GEOFFREY KOOME MBAYA.....11TH DEFENDANT

RULING/DIRECTIONS

1. This matter was coming up for directions on 9.3.2021 for submissions pursuant to a ruling delivered on 26.1.2021. Come 9.3.2021 and Mr. Mwanzia, counsel for the plaintiff informed the court that he has been dealing with a counsel who is not properly on record which necessitated the filing of the preliminary objection on 9.3.2021. He therefore urges the court to deal with the preliminary objection before other issues.

2. This application was opposed by Mr. C. Mbaabu appearing for 4th, 6th, 9th, 10th and 11th defendants who contended that he was served with a set of grounds of opposition and on 9.3.2021 he was served with the preliminary objection as well as a set of authorities. He urges the court to expunge the said documents as they contravene the orders of 26.1.2021 which required the opposing side to file submissions. He contends that he is properly on record as the consent to come on record was filed way back on 4.11.2019.

3. I have keenly looked at the entire record where it is apparent that post judgment proceedings commenced on 4.11.2019. Judgment had been delivered earlier on 25.10.2019. The court has given various directions particularly on 16.1.2020 and on 26.1.2021 regarding the prosecution of the pending applications. The date of 9.3.2021 was slated to confirm the filing of submissions and not the hearing of the preliminary objection.

4. In the circumstances, the court will proceed to give a ruling date in respect of the pending applications. Ruling on 26.5.2021.

DATED, SIGNED AND DELIVERED AT MERU THIS 17TH DAY OF MARCH, 2021

HON. LUCY. N. MBUGUA

ELC JUDGE

ORDER

The date of delivery of this Ruling was given to the advocates for the parties through a virtual session via Microsoft teams on 9.3.2021. In light of the declaration of measures restricting court operations due to the *COVID-19 pandemic* and following the practice directions issued by his Lordship, the Chief Justice dated 17th March, 2020 and published in the Kenya Gazette of 17th April 2020 as Gazette Notice no.3137, this Ruling has been delivered to the parties by electronic mail. They are deemed to have waived compliance with order 21 rule 1 of the *Civil Procedure Rules* which requires that all judgments and rulings be pronounced in open court.

HON. LUCY N. MBUGUA

ELC JUDGE