



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CASE NO. 54 OF 2018

FATUMA MOHAMED EGE.....PLAINTIFF

-VERSUS-

AMINA ABDI HAJI.....1ST DEFENDANT

COUNTY GOVERNMENT OF NAROK.....2ND DEFENDANT

AND

PATEL MUKUNDHAI PARSOTA ATTTAMBHAL..INTERESTED PARTY

RULING

That by a Notice of Motion dated 6th May, 2019 the Defendants/Applicants had sought for the recusal of the court from the hearing of the matter herein on the grounds that the continued hearing of the matter herein by the court will undermine the administration of Justice and that Justice may not be served. The application was opposed by the Plaintiff/ Respondent who contended that the applicant has met the threshold for the recusal of a Judge from the conduct of the matter.

I have considered the application before me and the replying affidavit in opposition to the same and the submissions filed by the parties.

The grounds for recusal are now well settled and a party seeking recusal of a judicial officer from the conduct of the matter must establish that and manifest a clear and distinct interest that the said officer has an interest in the matter and clear bias has been shown by the presiding Judicial Officer. In the instant application the applicant has not established any bias that the court has displayed is just a mere apprehensive that justice will not be served. Where a party exhibits such perception the court must envisage what would be the reasonable perception a member of the public who is reasonable and fair minded will think of the circumstances of the case which has been variously referred to as the objective test and it is my view that the instant application does not meet the objective as stated herein above.

From the above I find that the instant application is not merited and I therefore dismiss the same.

Whilst writing this ruling I have noted that the subject matter herein falls within the jurisdiction of the Magistrate Court and I accordingly order that the suit herein be transferred to Narok Chief Magistrate

Court for hearing and determination.

DATED, SIGNED AND DELIVERED ONLINE AT NAROK ON THIS 11TH DAY MARCH, 2021.

MOHAMMED N. KULLOW

JUDGE

11/3/2021

In the presence of: -

CA:Chuma

Mr Kilele for the plaintiff

Amina in person

N/A for the interested party