



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CIVIL CASE NO. 22 OF 2019

FORMERLY EMBU HCC NO. 74 OF 2002

IDELFONSE M'MBORE MAGIRIPLAINTIFF

VERSUS

SILVESTA ITHIMA NYAGA.....1ST DEFENDANT

ORIESTE NJERU.....2ND DEFENDANT

OSCAR KIRUNJA.....3RD DEFENDANT

THE AG (SUED ON BEHALF OF THE DIRECTOR OF LAND

ADJUDICATION & SETTLEMENT).....4TH DEFENDANT

RULING

1. The Ruling in this matter was to be delivered on **24th March, 2020**. This could not be done because of complications brought about by the Corona Virus Crisis. Upon issuance of the apposite notice to the parties, the Ruling will be delivered in open court today. This is because this court lacks the necessary technological facilities to deliver the Ruling electronically. However, all precautions have been taken to ensure compliance with all measures necessary to obviate the spread of the Corona 2019 virus.

2. On **25th February, 2020** Miss Kaaria, the advocate representing the plaintiff told the court that this matter had been transferred to Chuka from Embu. She told the court that the plaintiff was now deceased and that his family had managed to obtain ad litem letters of administration. She asked the court to **grant her 21 days** for the plaintiff to be substituted.

3. Mr. Kiongo told the court that the Attorney General had not been served with any suit papers. He said that since this matter was originally heard at Embu, the AG's office in Nairobi could have handled the matter. He went on to say that since the suit was **filed in 2002, almost 20 years ago**, it may be difficult to trace apposite documents in Nairobi. He asked the plaintiff to serve the AG with the suit papers. He also suspected that the suit may have been dismissed.

4. I have perused the file. This suit was filed at Embu on **14th November, 2002**, almost **twenty years** ago. On **11th March, 2015**, the court at Embu dismissed the suit in terms of **Order 17 rule 2(1)** of the Civil Procedure Rules. This being the case, the suit is no longer in existence. Hence, there was no suit to be transferred from Embu to Chuka. What has been transferred is the file and nothing else.

5. In the circumstances, it is ordered as follows:

- a) As there is no existing case, this file should be marked closed and be removed from the list of unheard matters in the register of ELC cases at Chuka.
- b) I issue no order as to costs.

Delivered in open Court at Chuka this **5th day of May, 2020** in the presence of:

CA: Ndegwa

Mark Muriithi for the 1st, 2nd and 3rd defendants

Plaintiff and advocate absent

P. M. NJORGE,

JUDGE.