



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 06 OF 2019

MARYANN MOHAMED CHEABRIL

(Suing as the administrator of the estate of

Asha Jabril Mohamed (deceased).....PLAINTIFF

VERSUS

MICHAEL KOOME MBURUGU.....1ST DEFENDANT

ISIOLO COUNTY GOVERNMENT2ND DEFENDANT

JEDIEL KIRIMI RUTERE.....3RD DEFENDANT

CHIEF LAND REGISTRAR.....4TH DEFENDANT

THE NATIONAL LAND COMMISSION.....5TH DEFENDANT

THE DIRECTOR OF SURVEY.....6TH DEFENDANT

THE ATTORNEY GENERAL.....7TH 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 **11th March, 2020**, the Plaintiff filed the following list of documents:

1. Special Power of Attorney dated 27th February ,2018.
2. Deed Plan Number 129803.
3. Certified grant of letters of administration intestate issued on 19th January, 2017.
4. Certificate copy of the Title for LR. No. 7918/107.
5. Letter dated 29th May, 2017 from Chief Officer Land, Physical Planning and Environment.
6. Letter dated 18th July, 2012 from City County of Isiolo, Eastern Province to Mr. Nteere.
7. Letter dated 29th April, 2019 from Office of the Director of Public Prosecutions to Mr. Jacob K. Mutua, Senior Assistant Director of Public Prosecutions.

8. Letter dated 15th April, 2019 from Ahmed Khadar Mohamed to DPP and DCI.

9. Letter dated 15th April, 2019 from Ahmed Khadar Mohamed to Ethics and Anti-Corruption Commission.

3. The list of documents was served upon the advocates representing the defendants in court on **11th March, 2020** Mr. Mwirigi Kaburu the 1st defendant's advocate asked the court to have the documents expunged because they had been filed out of the time stipulated by the court for compliance with order 11 of the Civil Procedures and without the leave of court. He was supported by Mr. Murango Mwenda for the 3rd defendant, M/s Mwiraria for the 2nd defendant and Mr. Kiongo for the 4th, 6th and 7th defendants.

4. Mr. Lakicha for the plaintiff agreed that the list of documents was indeed filed outside the time stipulated by the court for compliance with order 11 of the Civil Procedure Rules. He laid blame on his assistant who had earlier on handled this matter. He said that it was in the interest of justice that parties do proffer all relevant evidence. He said that this would not prejudice the defendants as they would have enough time to rebut any new evidence introduced by the plaintiff. He asked the court not to expunge the list of documents from the court's record.

5. Upon consideration of all facts and circumstances of this case, I issue the following orders:

- a. The plaintiff's list of documents filed on 11th March, 2020, is, in the greater interest of justice, deemed properly filed.
- b. The defendants have liberal leave to respond to any new evidence contained in the list of documents within 30 days of this ruling.
- c. Parties will come to court for directions on **14th October, 2020**.

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

CA: Ndegwa

Ndege for the plaintiff

Mark Muriithi h/b Mwirigi Kaburu for 1st defendant

P. M. NJOROGI,

JUDGE.