



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAORK

ELC MISC APPL. NO. 7 OF 2018

SAMUEL K. NGERECHI.....1ST APPLICANT

RICHARD K. BOSEK.....2ND APPLICANT

WILSON K. SANG.....3RD APPLICANT

JOSEPH MOSONIK.....4TH APPLICANT

VERSUS

JOSEPH KIPKOECH NGERECHI.....RESPONDENT

RULING

By a Notice of Motion dated 27th February, 2019 the Applicant sought for orders to stay the delivery of a Ruling in respect of Notice of Motion dated 4th May, 2018 and the court to grant leave to file a supplementary affidavit to introduce new documents after the close of pleadings.

The Application was based on the grounds that the Applicant is still within time frame to have the documents filed and that the said documents have come to his attention after he filed the proceedings and that they should be accorded the chance to pursue the Appeal out of time. The Application was supported by the Affidavit of Joseph Kipkoech Ngerich in which he deponed that he has been in possession of certain documents that he wishes to bring to the attention of the court and that it shall serve the interest of justice if the same is allowed.

The Application was opposed by way of a replying affidavit of Samuel K. Ngerich in which he deponed that the applicant is deliberately trying to delay the delivery of the Ruling of the court and that the Application is only meant to introduce extraneous issues in the matter and that the constituting petition is completely different.

I have read the Application before me and the submissions filed. This is a matter in which the applicant wishes to introduce new evidence after the parties have argued a case. The Applicant has not demonstrated why he could not produce the said documents and I find that the Applicant has every opportunity before the initial trial court and the filing of the instant appeal to file the new documents. In every event the Applicant has not particularized which are the said documents and the evidentiary value they hold and in the circumstances I find that the Notice of Motion dated 27th February, 2019 lacks merit and I dismiss the same with costs.

DATED, SIGNED and DELIVERED in open court at NAROK on this 2ND day of OCTOBER, 2019

Mohammed Kullow

Judge

2/10/19

In the presence of: -

CA:Chuma

Mr Langat holding brief for Mr Njiru for the applicant

N/A for the Respondents

Mohammed Kullo

Judge

2/10/19