



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 08 OF 2020

MAJANI ESTATES LIMITED.....PLAINTIFF/APPLICANT

VERSUS

MUTHONI NKONGE.....1ST DEFENDANT/RESPONDENT

MURIUKI NDUBI2ND DEFENDANT/RESPONDENT

SAULU NDIGA.....3RD DEFENDANT/RESPONDENT

KARIBA KANAMPIU.....4TH DEFENDANT/RESPONDENT

MWIRIGI MIRITI.....5TH DEFENDANT/RESPONDENT

MUGENDI KAINYATI.....6TH DEFENDANT/RESPONDENT

PAUL KINYUA RIUNGU.....7TH DEFENDANT/RESPONDENT

MWITI RIUNGU.....8TH DEFENDANT/RESPONDENT

BENEDICTINE NJIRU RIUNGU.....9TH DEFENDANT/RESPONDENT

JUDGMENT

1. This matter was slated for hearing the defence case on **17th May, 2021**. On that day, the following defendants were not in court:

- a) Mwirigi Miriti (5th defendant)
- b) Mugendi Kainyati (6th defendant)
- c) Mwiti Riungu (8th defendant)

2. I am satisfied that the three defendants were aware of the hearing slated for **17th May, 2021**.

3. Order 12, Rule 5 of the Civil Procedure Rules states as follows:

“If only some of the defendants attended, the court may proceed with the suit and may give such Judgment as is just in respect of the defendants who have not attended.”

4. On top of calling the names of the three defendants inside court, their names were also called outside court. They were not present.

5. The court proceeded with the suit against the absent defendants. Mr. Mutege, the plaintiff’s advocates told the court that he was relying on the plaintiff’s pleadings and all pleadings they have filed. He asked the court to enter judgment against the absent defendants. I find that the case against the 3 defendants has been proved in terms of the provisions of Order 12 Rule 5 of the Civil Procedure Rules.

6. Consequently, I enter judgment against Mwirigi Mwiti (5th defendant), Mugendi Kainyati (6th defendant) and Mwiti Riungu (8th defendant) and award costs to the plaintiff to be paid by the three aforementioned 5th, 6th and 8th defendants.

7. Orders accordingly.

Delivered in open Court at Chuka this **17th day of May, 2021** in the presence of:

CA: Ndegwa

Mutegi for the plaintiff

Muthomi Gitari for the defendants

P. M. NJORGE,

JUDGE.