



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

MERU ELC MISCELLANEOUS APPLICATION CASE NO. E19 OF 2021

JULIUS MBAE MUREMERA.....APPLICANT

VERSUS

NAZARIANO BUNDI STEPHINE & CATHERINE KAIMURI MUGUONGO

(SUED AS THE ADMINISTRATORS OF THE ESTATE OF M'MUGUONGO

MAGAMBO – DECEASED]RESPONDENTS

RULING

1. This application states that it has been brought to court under sections 1A, 1B, 3, 3A and 18 of the Civil Procedure Act and under Order 51 of the Civil Procedure Rules.
2. The application seeks the following orders:
 1. That this matter be certified urgent and be dispensed with in the first instance.
 2. That this honourable court be pleased to transfer ELC Suit No. 100 of 2018 [OS] [Julius Mbae Muremera vs Nazariano Bundi Stephine & Catherine Kaimuri Muguongo [sued as the administrators of the estate of M'Muguongo Magambo – deceased] from Nkubu Law Courts to the Environment and Land Court at Meru for hearing and determination.
 3. That costs of this application be in the cause.
3. The application is buttressed by the Affidavit of Julius Mbae Muremera sworn on **16th June, 2021** and has the following grounds:
 1. That the claim by the Applicant in ELC Suit No. 100 of 2018 (OS) is that of adverse possession against the Respondents herein.
 2. That a ruling was delivered by the Honourable J. Irura (PM) where it was held that the court lacked jurisdiction to hear and determine matters on adverse possession.
 3. That however, in the interest of justice and in the spirit of Constitution of Kenya, the Honourable Court issued an order to have the suit transferred to the High Court for determination of all issues.
 4. That upon transfer of the suit vide a letter dated 15th February, 2019 from Nkubu Law Courts, a response was issued vide a letter dated 4th March, 2019 stating that the Hon. Judge had given orders that only the High Court can transfer matters and there is no corresponding mandate granted to subordinate court.
 5. That it has now become paramount to file the instant application seeking for orders of transfer of ELC Suit No. 100 of 2018 [OS] from Nkubu Law Courts to the Environment and Land Court for hearing and determination.
 6. That it is only fair, just and equitable that the Applicant herein is given an opportunity to be heard and have his issues determined on merit.
 7. That the Applicant deserves a chance to be heard by the honourable court as the Respondents herein want to dispose him of the

suit property and this is the only place the Applicant and his family knows as home since they took possession in 1997 to date and have enjoyed uninterrupted quiet occupation of the same.

8. That the application is meritorious, has been brought in good faith and therefore ought to be allowed.

4. I have considered the application and do find that it has merit.

5. I issue the following orders:

a. Prayer 1 is spent as the application has already been heard.

b. Prayers 2 and 3 are granted.

WRITTEN AND DELIVERED IN OPEN COURT AT CHUKA THIS 21ST DAY OF JUNE, 2021 IN THE PRESENCE OF:

CA: Ndegwa

M/s. Kithinji for the Applicant

P. M. NJORGE,

JUDGE