



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC PETITION NO. 12 OF 2021

IN THE MATTER OF ARTICLES 2, 3, 10, 19, 20, 21, 22, & 23 OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF THE CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES 1, 2, 27, 28, 40, 47 & 50 OF THE CONSTITUTION OF KENYA 2010

BETWEEN

CHARITY TIRINDI MUKIRAPETITIONER

VERSUS

ELIAS KIRIINYA1ST RESPONDENT

ANASTACIA NKATHA2ND RESPONDENT

COUNTY GOVERNMENT OF MERU.....3RD RESPONDENT

RULING

1. This matter is scheduled for hearing on 26.10.2021. On 25.5.2021, counsel for the petitioner made an oral application for summons to issue to one P.W Kimani, a county surveyor Meru county to attend the hearing on 26.10.2021.
2. Mr. Kiety for the 2nd respondent (read the Attorney General) objected to this prayer averring that they would be put in an awkward position as the officer will be their witness. He stated that the petitioner ought to make a formal application.
3. I find that it is not necessary for the petitioner to make a formal application on the issue of summons to a particular witness. The provisions of Article 159 (2) (d) require that justice be done without undue regard to procedural technicalities.
4. Further, I find that the resolution of the dispute herein more or less fall squarely on the evidence or information from the survey office. So either way, there is a need to have the testimony of a surveyor.
5. The 2nd respondent raised the objection on the summons to the county surveyor yet they have not availed their list of witnesses for the court to discern if the said officer is one of their witnesses. However, in the course of writing this ruling, I have seen the list of witnesses for the 2nd respondent which contain the name of one person only namely; **George Kimathi**, whose statement is not in the file. As such, the court is not able to discern who this George Kimathi is.
6. In the circumstances, I allow the application made by the petitioners, hence summons are to issue to one P.W. Kimani, the County Surveyor to attend court on the scheduled date.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT MERU THIS 14TH DAY OF JULY, 2021 IN PRESENCE OF:

C/A: Kananu

Waigwa for petitioner

Kiety for Attorney General

HON. LUCY. N. MBUGUA

ELC JUDGE