



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

ELC NO. 31 OF 2015

JAMES MUGAI THUNGU.....PLAINTIFF

VERSUS

COUNTY GOVERNMENT OF TRANS-NZOIA.....1ST DEFENDANT

COUNTY EXECUTIVE OFFICER, LAND,

HOUSING & URBAN DEVELOPMENT.....2ND DEFENDANT

PHYSICAL PLANNER, TRANS-NZOIA COUNTY3RD DEFENDANT

RULING

The Application

1. The application dated **16/2/2021** and filed in court on **18/2/2021** has been brought under **Sections 3A** of the **Civil Procedure Act, Order 1 Rule 3, 10(2)** and **(14)** of the **Civil Procedure Rules**. The **1st** defendant seeks the following orders:-

(a) That this application be certified as urgent and heard on a priority basis.

(b) That this honourable court be pleased to join the honourable Attorney General of the Republic of Kenya and the National Land Commission as interested partes to this suit.

(c) Upon the two being joined they be served with all the pleadings herein and be at liberty to file responses to the plaintiff's suit as they may deem fit.

(d) That this honourable court be pleased to make any other or further directions as they may deem fit.

(e) That costs of this application be provided for.

2. The application is supported by an affidavit sworn on **16/2/2021** by the **1st** defendant's counsel.

The Response

3. The plaintiff filed a replying affidavit sworn on **12/4/2021**.

Submissions

1. The **1st** defendant filed its written submissions on **15/6/2021**. The plaintiff filed his written submissions on **16/6/2021**.

Determination

2. I have considered the application, the response and the submissions filed the parties. I have already dismissed a similar application dated **16/2/2021** in **Kitale ELC No 30 of 2015**. The grounds raised in that application are similar to the grounds raised herein. The parties in both suits are the same.

3. I find that the instant application must fail on account of the same reasons this court gave for the application dated **16/2/2021** in **Kitale ELC No 30 of 2015**.

4. Consequently, the application dated **16/2/2021** in the instant suit is hereby dismissed with costs to the respondent.

Dated, signed and delivered at Kitale via electronic mail on this 9th day of August, 2021.

MWANGI NJORGE

JUDGE,

ELC,

KITALE.