



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC CASE NO. 546 OF 2011

UMEED ALI ERAJ

RAANA SHELDON WILLIAMS ALSO KNOWNAS RAANA FATIMA ERAJ

ADEEL HAQ

MARIA BERNADETTE QUADROS

(Suing as legal representative of the Estate of Doctor Yusuf Ali Eraj)....PLAINTIFFS

VERSUS

BALCON HOUSING CO. LTD.....1ST DEFENDANT

1. STEPHEN NGANGA GITAU

2. SOLOMON KAGUCHIA

3. SOLOMON GAKUNJU (SUED AS OFFICIALS OF

LUMUMBA DRIVE PLOT OWNERS ASSOCIATION).....2ND DEFENDANT

RULING

1. This is the Notice of Motion dated 16th June 2021 brought under Section 60 Evidence Act (Cap 80), Section 13(1) and (2) of the Environment and Land Act (No 19 of 2011), Section 1A and 1B and Section 81(3) of the Civil Procedure Act (Cap 21) and Practice Directions on Electronic Case Management through Video Conferencing, Rule 6 (2) Gazette Notice No 2357.

2. It seeks orders:-

1. Spent.

2. That honourable court be pleased to take the evidence of the plaintiff's witness RAANA SHELDON through video link. RAANA Sheldon is resident in London United Kingdom.

3. That honourable court be pleased to take the evidence of the plaintiff's witness Rehana Vera Fatima Patel through video link, Rehana Vera Fatima Patel is resident in Australia.

4. That the costs of this application be in the cause.

3. The grounds are on the face of the application and are set out in paragraphs (a) to (m).

4. The application is supported by the affidavit of Rehana Vera Fatima Patel, a beneficiary of the estate of Yusuf Eraj sworn on the 25th May 2021.

5. I have considered the Notice of Motion, the affidavits in support and the affidavits in response. I have also considered the submissions

filed on behalf of the parties. The issue for determination is whether the application is merited.

6. The emergence of Covid-19 on the year 2020 has enabled courts to be innovative in the way to conduct their business. The request by the plaintiff is not unreasonable. The reasons given are justifiable. No prejudice will be occasioned to the defendants if the plaintiffs witnesses are allowed to testify via video link.

7. I find merit in this application and the same is allowed in terms of prayers no 2 and 3 of the application. The costs be in the cause

It is so ordered.

Dated, signed and delivered in Nairobi on this 23rd day of September 2021.

L. KOMINGOI

JUDGE

In the presence of:-

Mrs. Effendy for the Plaintiff

Ms Wangu for Mr. Kago for the 1st Defendant

Mr. Kimani for Mr. Gichachi for the 2nd Defendant

Steve – Court Assistant