



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC CASE NO. 10 OF 2020

FRIDAH KANJA MUTHAURA

(SUING AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF

MUNENE MUGO NCACU (DECEASED).....PLAINTIFF

VERSUS

ELIAS MICHENI MUGO.....1ST DEFENDANT

BERNARD MURIITHI MUGO.....2ND DEFENDANT

RULING

1. This matter had proceeded for hearing and was part-heard by the Hon. P. M. Njoroge, J. The Plaintiff had testified and the matter was due for further hearing on 12th October, 2021. By said date, the Honourable Judge who was seized of this matter had been transferred to ELC Isiolo.

2. When this matter came up before me on 12th October, 2021, Mr Mageto Advocate for the Plaintiff and Mr Nyamu Nyaga Advocate for the Defendants agreed by consent as follows:

- i) That the matter to proceed before this court from where it had reached.
- ii) That the proceedings be typed and be supplied to the parties.
- iii) That the matter be heard on 6/12/2021.

3. The consent was adopted as an order of the court. It should be noted that Order 18 Rule 8 (1) of the Civil Procedure Rules gives this court as the new judge discretion to decide whether or not to proceed with the suit from the stage at which my predecessor left it. The said order 18 Rule 8 (1) provides as follows:

“Where a Judge is prevented by death, transfer, or other cause from concluding the trial of a suit or the hearing of an application, his successor may deal with any evidence taken down under the foregoing rules as if such evidence had been taken down by him or under his direction under the said rules, and may proceed with the suit or application from the stage at which his predecessor left it”

4. In this instance, the trial Judge has been transferred to ELC Isiolo and is therefore prevented from concluding the trial of this suit. This court notes that the parties are in agreement that the matter may proceed before this court from the stage it had reached. Consequently, the consent of the parties is hereby adopted as an order of this court. the proceedings will be typed and the matter shall proceed for hearing on 6/12/2021 from the stage it had reached.

5. It is so ordered.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 12TH DAY OF OCTOBER, 2021 IN THE PRESENCE OF:

C/A: Ndegwa

Mageto for Plaintiff.

Nyamu Nyaga for Defendants.

C. K. YANO,

JUDGE.