



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

PETITION NO. E001 OF 2021

**IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS
AND FREEDOMS UNDER ARTICLE 40 OF THE CONSTITUTION OF KENYA 2010**

AND

IN THE MATTER OF ARTICLES 22 AND 23 AND 165 OF THE CONSTITUTION OF KENYA 2010

AND IN THE MATTER OF LAND ADJUDICATION ACT CAP 284 LAWS OF KENYA

AND

IN THE MATTER OF LAND CONSOLIDATION ACT CAP 283 LAWS OF KENYA

AND

IN THE MATTER OF ENVIRONMENT AND LAND ACT – 2011

BETWEEN

M'THIRARI M'MWERERIA.....PETITIONER

AND

LAND ADJUDICATION & SETTLEMENT OFFICER –IGEMBE/

SOUTH/CENTRAL/NORTH SUB COUNTIES.....1ST RESPONDENT

DIRECTOR OF LAND ADJUDICATION.....2ND RESPONDENT

THE HON. THE ATTORNEY GENERAL.....3RD RESPONDENT

RULING

1. By an application dated 3.5.2021 brought under **Section 1A, 1B & 3 A of the Civil Procedure Act** and **Order 32 Rule 1** of the **Civil Procedure Rules** the court is being called upon to appoint one Fr. Abel Kubai as guardian ad litem of the petitioner so as to proceed with the petition on account of his advanced age and mental infirmity. The application is supported by an affidavit of the proposed guardian sworn on 3.5.2021.

2. There are no proceedings attached to the affidavit in support showing the proposed guardian has petitioned for the appointment as a guardian under the **Mental Health Act No. 15 of 2020** for this to invoke **Order 31 Rule 1** of the **Civil Procedure Rules**.

3. In absence of the same, it is my considered view that this application is premature. The same is struck out with no orders as to costs.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT MERU THIS 24TH DAY OF NOVEMBER, 2021

In presence of:

No appearance for parties

Court Assistant - Kananu

HON. C.K. NZILI

ELC JUDGE