



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT MERU**

**ELC NO.67 OF 1998**

**ESTHER KATHAMBI DELFIN .....PLAINTIFF**

**VERSUS**

**M'IBEERE KARAINI .....DEFENDANT**

**RULING**

1. This case is partly heard whereby defence case is in progress. On 18.2.2020 just after DW1 had given his testimony counsel for the plaintiff applied to have paragraph 5 of the defence struck out for being vague and for want of particulars. It was contended that the said paragraph doesn't help the proceedings and it amounts to nothing and that even the court can strike out the aforementioned paragraph 5 suo-moto.

2. In response, it was argued by defence counsel that such a serious application ought to be made through a substantive application. It was also averred that pleadings have closed and that what is being raised is a matter to be determined through submissions. The defence further argues that this is a 1998 case, that plaintiff has already closed her case hence this application is an afterthought.

3. I have considered that this is a 1998 case, one of the oldest in this station. The matter has progressed at length whereby plaintiff has even closed her case, while defence case has kicked off. The issue being raised at this stage can properly be addressed through submissions at the end of the trial.

4. In the circumstances, the application to strike out paragraph 5 of defence is hereby dismissed.

**DATED, SIGNED AND DELIVERED AT MERU THIS 21<sup>ST</sup> DAY OF MAY, 2020**

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**

**ORDER**

The date of delivery of this ruling was given to the parties at the conclusion of the hearing and by a fresh notice by the Deputy Registrar. In light of the declaration of measures restricting court operations due to the *COVID-19 pandemic* and following the practice directions issued by his Lordship, the Chief Justice dated 17<sup>th</sup> March, 2020 and published in the Kenya Gazette of 17<sup>th</sup> April 2020 as Gazette Notice no.3137, this ruling has been delivered to the parties by electronic mail. They are deemed to have waived compliance with order 21 rule 1 of the *Civil Procedure Rules* which requires that all judgments and rulings be pronounced in open court.

**HON. LUCY N. MBUGUA**

**ELC JUDGE**