



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

ELC SUIT NO. 126 OF 2012

**STEPHEN MURIIRA MAKERO (as legal representative of
the estate of M'MAKERO KAENDO.....PLAINTIFF**

VERSUS

MOSES MUNGANIA1ST DEFENDANT
JOYCE KINYA2ND DEFENDANT
STEPHEN MURIMI.....3RD DEFENDANT
ROSE MUTHONI.....4TH DEFENDANT
THE LAND ADJUDICATION OFFICER,
TIGANIA WEST DISTRICT.....5TH DEFENDANT
THE HONOURABLE ATTORNEY GENERAL.....6TH DEFENDANT

ORDER/RULING

The matter was coming up today to confirm if the parties have complied with the Court's Orders of 09:11:16 Counsel for Plaintiff, Mr. D. Rimita has requested the Court to give a hearing date notwithstanding the fact that the other parties have not complied.

Mr. Kibiti has told the Court that on the part of 1st -4th defendant, there is full compliance.

Mr. Kiety for 5th and 6th defendants states that they are not adding much but prays for leave to put in any further documents.

A perusal of the Court's record show that this is an old matter where the plaint was filed way back on 22.06.12.

The issue of compliance dates (or lack of it) back to 23:07:15 and almost 4 years down the line, that issue is still running.

Pursuant to provisions of S. 1 A (3) of the Civil Procedure Act

“ a party to Civil Proceedings or an Advocate for such a party is UNDER A DUTY TO ASSIST THE COURT to further the overriding objective of the Act and to that effect to participate in the processes of the Court and to COMPLY WITH THE DIRECTIONS OF AND ORDERS OF THE COURT.

Further article 159 2 (b) of the Constitution requires that justice be expedited.

I also make reference to the case of ***Hunker Trading Company Ltd Vs ELF Oil Kenya Ltd Court of Appeal Nairobi. Civil App. No. 6 of 2010*** where the Court Made reference to the case of ***Mradula Suresh Kantaria and Surech Nanillal Kaptaria Civil Appeal No. 277 of 2005*** (unreported) where it had been observed that:-

“ in this regard we believe one of the Principal purposes of the double “OO Principle “ is to enable the Court to take Case Management Principles to the Centre of the Court Process in each case coming before it so as to conduct proceedings in a manner which makes the attainment of justice FAIR, QUICK, and CHEAP”.

This Court is duty bound to carry out its mandate in accordance with the law (Constitution, statute and case law).

In light of the history of this case, I decline to allow any more time for compliance. The Court will proceed to give directions on how the trial will proceed, and the Pretrial Directions will be captured in the template dated 08.03.17.

DELIVERED IN OPEN COURT AT MERU THIS 8TH MARCH, 2017

IN THE PRESENCE OF:-

CA: Janet

Rimita for the Plaintiff

Kibiti for 1st to 4th Defendants

kiety for 6th defendant -state

L.N. MBUGUA

JUDGE