



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**

**CIVIL SUIT NO 11 OF 2006**

**RUKENYA BURI.....PLAINTIFF**

**VERSUS**

**M'ARIMI MINYORA.....1ST DEFENDANT**

**DIRICK KIRUJA .....2ND DEFENDANT**

**MUGENDI M'ARIMI .....3RD DEFENDANT**

**R U L I N G**

The Court heard an Oral Application by Advocate Gatari Ringera for consolidation of HCCC NO. 82 of 2009 (OS) and HCCC 11 of 2006.

There is miscellaneous application No. 71 of 2012 filed by Advocate I.C. Mugo for the applicants, Dirick Mugambi and Mugendi M'Arimi, which is dated 31/07/2012 and seeks orders:-

1. ***That the High Court Case No. 11 of 2006 and High Court Civil Case No. 82 of 2009 (OC) Be consolidated and heard and determined together by this Honourable Court.***
2. ***The costs of this application be provided for.***

The application is supported by the affidavit of Dirick Mugambi and has the following grounds:-

- a. ***That the applicants herein are the Plaintiffs in HCCC NO. 82 OF 2009 (O.S) while the respondent is the defendant.***
- b. ***That the Respondent is the Plaintiff in HCCC NO. 11 OF 2006 while the Applicants are 2nd and 3rd Defendants in the said case.***
- c. ***That the subject matter in HCCC NO. 11 OF 2006 & HCCC NO 82 OF 2009 (O.S) is the same to wit LRMWIMBI/S.MUGUMANGO/305.***
- d. ***That the applicants in HCCC NO. 82 of 2009 (O.C) claim that they have acquired by adverse possession LR. MWIMBI/S. MUGUMANGO/305 while the plaintiff in HCCC No 11 OF 2006 claims the the applicants herein are trespassers into his land that he holds absolutely and free from any encumbrances.***
- e. ***That since the subject matter of the two suits HCCC No. 11 OF2006 and HCCC NO. 82 OF 2009 (O.S) is the same and litigants are the same, it will save the Court's precious time if the***

*two suits are consolidated and heard together by the Honourable Court.*

- f. That determination of issue of trespass cannot determine the issue of adverse possession but if the issues of adverse possession are determined the same will determine the issue of trespass and hence the two suits.*
- g. No party stands to suffer any prejudice if the suits are consolidated, heard and determined by this Honourable Court.*

On 02/03/2016, Mr. Gatari Ringera, representing the Respondent intimated to Court that he did not oppose the application. **In the Circumstances, the application is allowed with the effect that the apposite suits are consolidated.**

It is so ordered.

**Delivered in Open Court at Meru this 2nd day of March, 2016 in the presence of.**

CC: Lilian/ Daniel

Gatari Ringera for the Respondent

**P. M. NJOROGE**

**JUDGE**