



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MERU

CIVIL SUIT NO 107 OF 2012

GILBERT JOSEPH KBUNJA.....PLAINTIFF

VERSUS

JULIUS MUGAMBI GACECE.....DEFENDANT

RULING

1. This application, brought to Court by way of Chamber Summons, is dated 24th July, 2012 and seeks orders: -

a. M'RWEMBE M'MUNGANIA be added as a defendant herein and be allowed to put in his pleadings.

b. The costs of this application be provided for:-

2. The application is supported by the affidavit of M'RWEMBE M'MUNGANIA, the applicant, and has the following grounds:-

i. The Defendant is the son of the applicant M'RWEMBE M'MUNGANIA and the defendant is living on the suit land on his instructions or his proxy.

ii. The suit land is claimed by both the plaintiff and the said M'RWEMBE M'MUNGANIA and therefore his presence is necessary for the real matter in dispute to be determined.

iii. To do justice to the parties MR. M'RWEMBE M'MUNGANIA'S presence and evidence is necessary.

3. The parties filed Written Submissions . The applicant urges the Court to allow the application since by doing so, the Court will be facilitating the just, expeditious, proportionate, judicious and affordable resolution of this suit. The applicant says that he is the legal proprietor of the suit land and that he has been in continuous occupation.

4. The plaintiff opposes the application. In his Replying Affidavit Sworn on 22nd October, 2012, the Plaintiff avers that the applicant has never been the father of the defendant as alleged in this application. Inter alia, it is alleged that the applicant and the defendant were involved in another suit over the same suitland and that the Kajuki/Kamutiria Arbitration Board gave a verdict in favour of the Plaintiff.

5. Some of the issues the parties have raised can only be determined after the suit is heard. In the Interest of Justice and to hear all issues on their merits, I find that it will not prejudice the plaintiff if this application is allowed.

6. I issue the following orders:-

1. Prayer (a) in the application is allowed.

2. Costs shall be in the cause.

It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 11TH DAY OF MAY, 2016 IN THE PRESENCE OF:

CC: Lilian /Daniel

Rimita for the Applicant

Kaimba for the Respondent/Plaintiff

P.M. NJOROGI

JUDGE