



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

ENVIRONMENT AND LAND COURT CASE NO 80 OF 2016

M'MUCHEKE M'MURIANKI.....PLAINTIFF

VERSUS

1. PHINEHAS MICHENI MUCHEKE.....1ST DEFENDANT

2. GERALD GUANTAI MUCHEKE.....2ND DEFENDANT

R U L I N G

1. This application is dated 20th June, 2016. It is predicated upon Sections 1A, 1B,3A of the Civil Procedure Act, Order 18 rule 9 of the Civil Procedure Rules and all other enabling provisions of the law.

2. The application seeks orders:

- (1) ***THAT this Application be certified urgent and be heard on priority basis.***
- (2) ***THAT this Honourable Court be pleased to order that the plaintiff's evidence be taken immediately or as the Court shall direct.***
- (3) ***THAT the costs of this application be provided for;***

3. The application is supported by the affidavit of M'MUCHEKE M'MURIANKI and has the following grounds:-

- a) ***The Plaintiff is about 87 years old and sickly.***
- b) ***That the evidence of the Plaintiff needs to be taken at the earliest.***
- c) ***That the defendants are waiting for the Plaintiff's death so that they could throw away their sisters.***

4. The Court notes that the aim of the application is to hear de bene esse the evidence of the Plaintiff who is 87 years old and sickly. The Court finds that the application is meritorious.

5. The following orders are issued :-

- (1) ***The application is allowed.***
- (2) ***The applicant to obtain a priority hearing date for de bene esse hearing of the evidence of M'MUCHEKE M'MURIANKI in the next term and should a convenient date not be given, the***

applicant to come back to Court for directions.

(3) Costs shall be in the cause.

6. It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 19TH DAY OF JULY, 2016 IN THE PRESENCE OF :-

CC:

Daniel/Lilian

Baikiata present for Plaintiff

P. M. NJOROGE

JUDGE