



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
LAND AND ENVIRONMENT DIVISION

ENVIRONMENT AND LAND COURT CASE NO. 95 OF 2014(OS)

MARK MURIUKI KIRIMAPLAINTIFF

VERSUS

ISABELLA KATHUNI M'MUNGANIADEFENDANT

RULING

This application is dated 4th November, 2014. It seeks Orders:

1. ***THAT the Plaintiff's suit be struck out with costs for breaching the mandatory provisions of order 4 Rule 1 (1) (f).***
2. ***THAT the costs of the application be provided for:***

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

1. ***THAT this suit was filed on 19/06/2014***
2. ***THAT before this suit was filed the defendant had already sued the Plaintiff herein in NKUBU PMCC NO. 68 of 2014, which was filed on 11/06/2014.***
3. ***THAT the Plaintiff herein had entered appearance in the NKUBU suit on 18/06/2014.***
4. ***THAT the Plaintiff herein has failed to adhere to the mandatory provisions of order 4 Rule 1(1) (f) and as such the present suit is an abuse of the Court process.***

On 22/04/2015, the applicant was granted 14 days to put in his written submissions. He has not done so. As a result, the respondent has not filed her written submissions. This Court directed that the filing of submissions be confirmed on 08/06/2015.

Considering the circumstances of this matter, I feel that the applicant is merely delaying the hearing of the main suit. In the circumstances, I dismiss the application with costs to be in the cause.

It is so ordered.

Delivered in Open Court at Meru this 8th Day of June 2015 in the presence of:-

CC: Lilian

Kiogora for applicant

Baithambu holding brief Mwirigi for Defendant

P.M. NJOROGE

JUDGE