



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

HCC NO 54 OF 2008

DANIEL RIUNGU MATHIU

GERALD MURIRA M'MBWIRIA

ANDREW MUNGATIA ANJURI

SILAS KAMATHI AYUB.....PLAINTIFF/APPLICANTS

VERSUS

MUNICIPAL COUNCIL OF MERU

JOHN KABITI MUKANGO

EUTYCHUS MUTHUI

EMILY KARAMBU MUTHUI

MUSA M'KIRERA.....DEFENDANTS/RESPONDENTS

RULING

This application is dated 23rd January, 2015. It seeks Orders.

1. THAT this Honourable Court be pleased to make an order allowing the Plaintiff/Applicants to substitute the name of the 1st defendant in the proceedings herein with the name of the COUNTY GOVERNMENT OF MERU COUNTY.

2. THAT upon granting of prayer No. 1 above the pleadings herein be deemed to have been duly amended to the effect that all and any references made in the pleadings regarding the 1st defendant be deemed to have been made in regard to the COUNTY GOVERNMENT OF MERU COUNTY and all pleadings filed by the 1st defendant be deemed to have been filed by the COUNTY GOVERNMENT OF MERU COUNTY.

3. THAT the costs of this application be costs in the cause.

It has the following grounds:-

- a. ***The Plaintiffs/Applicants instituted this suit against the MUNICIPAL COUNCIL OF MERU and four others way back in the year 2003 but now with the promulgation of the new***

- constitution in 2010, the 1st defendant has ceased to exist.*
- b. The 1st defendant is now no longer in existence and has been succeeded by the COUNTY GOVERNMENT OF MERU COUNTY and who, by operation of the Law, have assumed all assets and liabilities (past, present and future) of the 1st defendant herein (now defunct).*
 - c. The said changes have therefore made it necessary for the said 1st defendant to be removed from the proceedings herein and to be substituted by its successor.*
 - d. The Nature, facts and circumstances herein are in favour of granting of the prayers being sought for by the Plaintiffs/Applicants through this application.*

On 13/07/2015, the Parties told the Court that they did not oppose the application. I find that the application is merely facilitative to allow the County Government to be enjoined in the suit to accord with the imperatives of the new constitutional dispensation spawned by the Constitution of Kenya, 2010.

In the circumstances, the application is allowed.

It is so ordered.

Delivered in open Court at Meru this 13th day of July, 2015 in the presence of:-

CC: Daniel/Lilian

Mutegi holding brief for Atheru for County Government of Meru

Manases Kariuki for Plaintiffs

Miss Kungu for 6th and 7th Defendant

Gitonga for 2nd, 3rd, 4th and 5th defendants.

P.M. NJOROGE

JUDGE