



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERUGOYA

ELC CASE NO. 12 OF 2014

PETER KARANJA MARINGA.....1ST PLAINTIFF

RAPHAEL MUTURI KARIUKI.....2ND PLAINTIFF

VERSUS

SARAH WANDIA NJOGU.....DEFENDANT

RULING

By their amended plaint filed herein on 14th February 2014, the plaintiff seeks the following remedy against the defendant.

a. That the defendant be ordered to proceed with Succession Cause No. 48 of 2012 as directed by the Judge and alternatively and without prejudice, the plaintiffs be allowed to proceed and execute it's orders.

b. Costs of the suit

c. Any other relief the Court may deem just to grant.

Looking at the body of the plaint, the dispute herein seem to relate to a Succession Cause No. 48 of 2012 pending at the Kerugoya High Court and also an agreement relating to a parcel of land.

When the matter came up before me today, Mr. Maina for the defendant raised a Preliminary Objection to the suit on the ground that the same is sub-judice as there is Kerugoya Succession Cause No. 48 of 2012 pending. The plaintiffs confirmed that indeed there is Succession Cause No. 48 of 2012 pending at the High Court Kerugoya. That being the case and this Court having seen a ruling in the said cause where the plaintiffs are named, it is clear that this suit is caught up with the provision of **Section 6 of the Civil Procedure Act**. A suit caught up in that provision is not dismissed, as sought by Mr. Maina. Instead, it is stayed.

Secondly, the remedy being sought in this plaint is really a matter to be canvassed in the Succession Cause No. 48 of 2012 pending at Kerugoya High Court.

I accordingly order that this suit be stayed in accordance with the provisions of **Section 6 of the Civil Procedure Act**.

B.N. OLAO

JUDGE

2ND JULY 2014

Ruling delivered this 2nd day of July 2014 in open Court.

Plaintiffs present in person.

Mr. Maina present for defendant.

B.N. OLAO

JUDGE

2ND JULY 2014