



REPUBLIC OF KENYA

IN THE HIGH COURT OF KEYA AT MERU

CIVIL SUIT NO. 31 OF 2011

ANN NKATHA.....PLAINTIFF

VERSUS

GEORGE CHEME MUGUNA.....DEFENDANT

FESTUS MWITI M'IKIUGU.....INTENDED INTERESTED PARTY

R U L I N G

This application is dated 6th October, 2014 and seeks orders:-

1. ***THAT this honourable court be pleased to grant leave to FESTUS MWITI M'IKIUGU to be enjoined in the suit herein as an interested party for orders:***
2. ***THAT the honourable court be pleased to review and set aside the orders of this court staying proceedings in Meru CMCC No.42 of 2011.***
3. ***THAT the Honourable court be pleased to grant any such further and/or better orders to meet the ends of Justice.***
4. ***THAT the costs of this application be provided for.***

It is predicated upon the following grounds.

1. ***THAT intended interested party is the plaintiff in Meru CMCC NO.42 OF 2011.***
2. ***THAT intended interested party was on 1st October, 2014 served with the application dated 25th September, 2014 and filed in court on 29th September, 2014 when he has not been enjoined as a party in the present proceedings to wit; MERU HIGH COURT CIVIL CASE NO. 31 of 2011.***
3. ***THAT the plaintiff herein vide an application dated 25th September, 2014 sought interim orders staying proceedings in Meru CMCC NO. 42 OF 2011 which orders affects the interested party adversely.***
4. ***THAT the plaintiff and the Defendant therein have colluded to delay justice in Meru CMCC NO. 42 OF 2011.***
5. ***THAT the proceedings herein were filed after I had filed and served the pleadings in Meru CMCC NO. 42 OF 2011.***

6. ***THAT*** the interested party's presence before the court is necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the application dated 25th September, 2014, filed on 29th September, 2014 and served upon the intended interested party/applicant on 1st October, 2014.
7. ***THAT*** the said interim orders have adversely affected the intended interested party's rights over Meru CMCC NO.42 OF 2011 for justice delayed is justice denied.
8. ***THAT*** the prayers sought vide this application will not prejudice the interested of the parties herein.
9. ***THAT*** the application dated 25th September, 2014 offends the cardinal principal of natural justice as it seeks adverse orders against the interested party when the plaintiff has made no efforts to enjoin him in the application and or suit and if the same proceeds the way it is intituled,(sic) the intended interested party stands to suffer great loss and prejudice before he is heard, contrary to the word and spirit of the Kenya constitution, 2010.
10. ***THAT*** the procedure adopted herein is unknown in our Kenya Civil Jurisprudence.

On 15.10.2014 when the application was to be heard, the parties by consent, asked the court to allow the Application. It is, therefore, allowed with costs to be in the cause.

Delivered in Open Court at Meru this 15th day of October, 2014 in the presence of:

Cc. Daniel/Lilian

D.J. Mbaya for applicant/Interested Party

Muthamia h/b Mrs Kaume for Respondent

Muthomi for defendant

P. M. NJOROGE

JUDGE