



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**  
**AT CHUKA**  
**CHUKA ELC CASE NO. 18 OF 2019**  
**FORMERLY MARIMANTI ELC 48 OF 2017**  
**FORMERLY CHUKA ELC 191 OF 2017**

DALCO TRADING CENTRE.....APPLICANT/PLAINTIFF

VERSUS

KAMAITA IMATHIU.....1<sup>ST</sup> RESPONDENT/DEFENDANT

LAWRENCE N. MUGAMBI.....2<sup>ND</sup> RESPONDENT/DEFENDANT

MOHAMED HASHIN JAMAH.....3<sup>RD</sup> RESPONDENT/DEFENDANT

LAND REGISTRAR, THARAKA NITHI COUNTY....4<sup>TH</sup> RESPONDENT/DEFENDANT

**RULING**

1. The advocate for the 3<sup>rd</sup> defendant and the advocate for the 4<sup>th</sup> defendant made oral applications to introduce new witness statements. This court had given orders regarding compliance with order 11 of the Civil Procedure Rules.
2. It is clear that these 2 applications are being made very much out of the time granted to the parties to comply with order 11 of the Civil Procedure Rules. Four witnesses for the plaintiff have already given evidence.
3. The Court of Appeal has in Telkom Kenya Limited versus John Ochanda (suing on his own behalf and on behalf of 996 Former Employees of Telkom Kenya Limited (eKLR) stated as follows:

***“The respondents are seeking umbrage under Article 159(2)(d) of the Constitution which provides that justice shall be administered without undue regard to procedural technicalities. It does not avail them. We are content to state that the constitutional provision is not meant to whitewash every procedural failing and it is not meant to place procedural rules at naught. In fact, what has befallen the respondents is proof, if any were needed, that there is great utility in complying with the rules of procedure. Such compliance is neither anathema nor antithetical to the attainment of substantial justice. As has been said before, the rules serve as hand maidens of the Lady Justice.”***

4. It thus unequivocally ruled that procedural rules are the hand maidens of justice. They cannot, therefore, be taken for granted and therefore be ignored Willy Nilly.

5. I have carefully considered this matter and I rule as follows:

- a) The two oral applications to introduce 2 witness statements against the timelines given through a court order are hereby denied.
- b) The supporting affidavit filed by advocate Wanyanga dated 27.10.2020 is hereby allowed to be deemed as the 3<sup>rd</sup> defendant’s witness statement.
- c) It is so ordered.

**Delivered in open Court at Chuka this 9<sup>th</sup> day of November, 2020** in the presence of:

CA: Ndegwa

Siagi for the plaintiff

Murango Mwenda for 1<sup>st</sup> and 2<sup>nd</sup> defendants

Wanyanga for the 3<sup>rd</sup> defendant

Kiongo for the 4<sup>th</sup> defendant

**P. M. NJORGE,**

**JUDGE.**