



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**CHUKA ELC CASE NO. E001 OF 2020**

**ESTHER MUGURU NJERI NJOROGE MICHENI ..... APPLICANT**

**VERSUS**

**IAN KARANI KAMUNDE.....1<sup>ST</sup> RESPONDENT**

**FRANCIS KAMUNDI MUNYUA.....2<sup>ND</sup> RESPONDENT**

**THE LAND REGISTRAR THARAKA NITHI COUNTY .....3<sup>RD</sup> RESPONDENT**

**RULING**

1. This matter was heard electronically via zoom on 8/12/2020.
2. On 14/10/2020, the following ruling was delivered:

**RULING**

1. This application is dated **7<sup>th</sup> October, 2020** and seeks orders:

1. This application be certified as urgent and be heard ex-parte in the first instance due to the urgent nature of the reliefs sought and service of this application be dispensed with.

2. **THAT** leave is hereby granted that the 1<sup>st</sup> Respondent be served through electronic mail since he is a German Resident.

3. **THAT** this Honourable Court be pleased to order that an inhibition be issued and the same be registered against parcel No. KIERA/MAGUTUNI/98 to restrict any dealings or transfer of the said parcel of land and the District Land Registrar Chuka be directed to register the inhibition against the parcel of land pending the hearing and determination of this Application *inter partes* or until further orders of this Honourable Court.

4. **THAT** this Honourable Court be pleased to issue a temporary order of injunction restraining the Respondents whether by themselves, their servants, agents, or any person whomsoever from doing any of the following acts that is to say evicting, demolishing the Applicant's houses, selling, leasing, charging or otherwise howsoever interfering with the Applicant's quiet, peaceful, actual and exclusive possession, cultivation, user, development and enjoyment of the parcel of land known as Title Number KIERA/MAGUTUNI/98 pending the hearing and determination of this Application *inter partes*.

5. **IN THE ALTERNATIVE** this Honourable court be pleased to order the status quo prevailing as at April, 2017 regarding possession, user, occupation and registration of the parcel of land known as Title Number KIERA/MAGUTUNI/98 by the Applicant pending the hearing and determination of this application *inter partes* or until further Court orders.

6. **THAT** this Honourable Court be pleased to issue a temporary order of injunction restraining the Respondents whether by themselves, their servants, agents, or any person whomsoever from doing any of the following acts that is to say evicting, demolishing the Applicant's houses, selling, leasing, charging or otherwise howsoever interfering with the Applicant's quiet, peaceful, actual and exclusive possession, cultivation, user, development and enjoyment of the parcel of land known as Title Number KIERA/MAGUTUNI/98 pending the hearing and determination of this suit.

7. That the O.C.S. Magutuni Police Station and the Area Chief enforce the court order and ensure that peace prevails.

**UPON INTER-PARTIES HEARING**

8. **THAT** this Honourable Court be pleased to order that an inhibition be issued and the same be registered against parcel No. KIERA/MAGUTUNI/98 to restrict any dealings or transfer of the said parcel of land and the District Land Registrar Chuka be directed to register the inhibition against the parcel of land pending the hearing and determination of this suit or until further orders of this Honourable Court.

9. **THAT** this Honourable Court be pleased to issue a temporary order of injunction restraining the Respondents whether by themselves, their servants, agents, or any person whomsoever from doing any of the following acts that is to say evicting, demolishing the Applicant's houses, selling, leasing, charging or otherwise howsoever interfering with the Applicant's quiet, peaceful, actual and exclusive possession, cultivation, user, development and enjoyment of the parcel of land known as Title Number KIERA/MAGUTUNI/98 pending the hearing and determination of this suit.

10. **IN THE ALTERNATIVE** this Honourable court be pleased to order the status quo prevailing as at April, 2017 regarding possession, user, occupation and registration of the parcel of land known as Title Number KIERA/MAGUTUNI/98 by the Applicant pending the hearing and determination of this suit or until further Court orders.

11. **THAT** this Honourable Court be pleased to issue a temporary order of injunction restraining the Respondents whether by themselves, their servants, agents, or any person whomsoever from doing any of the following acts that is to say evicting, demolishing the Applicant's houses, selling, leasing, charging or otherwise howsoever interfering with the Applicant's quiet, peaceful, actual and exclusive possession, cultivation, user, development and enjoyment of the parcel of land known as Title Number KIERA/MAGUTUNI/98 pending the hearing and determination of this suit.

12. That the O.C.S. Magutuni Police Station and the Area Chief enforce the court order and ensure that peace prevails until the determination of this suit.

13. The costs of this application be provided for.

2. The application has the following grounds:

a) The Applicant herein got married to the late Mr. Carey Micheni Munyu in or about 1980.

b) That the Marriage was blessed with four issues namely, John Mawira Micheni, Aileen Kathambi Micheni, Grace Muthoni Micheni and Sophia Micheni.

c) That the deceased was the first born son of the 2<sup>nd</sup> Respondent and the brother of the 1<sup>st</sup> Respondent who lived quietly with his family at Karia.

d) That the Applicant and her late husband were requested to move from Karia to Njagini next to the 2<sup>nd</sup> Respondent's place where they made development on the land by constructing a semi-permanent house, planted trees, Mangoes, bananas and food crops. However before the Applicant moved to Njagini from Karia they had started constructing their house there. Unfortunately the Applicant's husband fell sick and subsequently passed away on 29<sup>th</sup> January, 2017 and was buried in Njagini.

e) That the 2<sup>nd</sup> Respondent's request to the Applicant to go back and be allocated land parcel No. LR NO.KIERA/MAGUTUNI/98 was informed by the following reasons:

a) The Applicant's Mother-in-law and the 2<sup>nd</sup> Respondent were seriously sick and there was nobody to take care of them.

b) The 2<sup>nd</sup> Respondent wanted to be closer to his grandchildren.

c) He was concerned with the Applicant's safety as Karia where the Applicant and her family were staying had people who were claiming title to the land. To avoid such conflict the 2<sup>nd</sup> Respondent decided that the Applicant moves to Njagini next to where the 2<sup>nd</sup> Respondent is residing.

d) That the 2<sup>nd</sup> Respondent assured the Applicant of her security of occupation of the land parcel No. LR NO.KIERA/MAGUTUNI/98 that nobody would interfere with the Applicant's enjoyment and quiet occupation of land and even assisted the Applicant financially in the completion of the house the Applicant had started constructing with her late husband.

e) That on or about 25<sup>th</sup> June, 2020, the Applicant went to the land Registry and did a land search on parcel No. LR NO.KIERA/MAGUTUNI/98 and found out that it was registered on 5<sup>th</sup> April, 2020 in the name of the 1<sup>st</sup> Respondent without consultation with the Applicant or her knowledge.

f) To the consternation, surprise and disbelief of the Applicant, the 1<sup>st</sup> Respondent issued the Applicant with a demand letter dated 1<sup>st</sup> July, 2020 demanding that the Applicant should stop trespassing on the said parcel of land within a period of 3 months.

g) That upon investigation by the Applicant as to why the 1<sup>st</sup> Respondent registered parcel no LR NO.KIERA/MAGUTUNI/98 in his name, the Applicant was informed that she is a Kikuyu from Muranga therefore not entitled to be allocated land in Meru. The other reason is that being a Kikuyu she will sell the parcel of land and run away.

h) Therefore is fear, apprehension and every likelihood that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents through their agents, servants or anyone authorized by them, without following any procedure provided for in law, will proceed to evict the Applicant from her matrimonial home in parcel No. LR NO.KIERA/MAGUTUNI/98 when she is the beneficial owner and her husband is buried on the said parcel of land.

i) That the Respondents in a treacherous and ill motivated move are interfering with the Applicant's quiet possession and occupation of parcel no LR NO.KIERA/MAGUTUNI/98 as the beneficial owner.

j) That the registration of land parcel No. LR NO.KIERA/MAGUTUNI/98 is illegal and violates the Land Control Act Cap 302 Laws of Kenya as the said parcel of land has been registered in the name of the 1<sup>st</sup> Respondent who is a German citizen.

k) That the 1<sup>st</sup> Respondent being a German citizen has not obtained exemption from the President of the Republic of Kenya before registration of parcel No. LR NO.KIERA/MAGUTUNI/98 under the Land Control Act.

l) It is in the interest of justice that this Honourable Court intervenes urgently to prevent the Respondents from forging ahead with the intended unlawful eviction against the Applicant.

m) **THAT** the 1<sup>st</sup> Respondent has been threatening to evict the Applicant from the suit land number which shall effectively render her and her family destitute.

n) **THAT** the Applicant has been in open, exclusive, continuous and uninterrupted occupation of the suit land since the year 2017 before the same was fraudulently recorded in the name of the 1<sup>st</sup> Respondent hence she has developed a beneficial interest thereto.

o) **THAT** the Applicant has known no other land than the suit land since the year 2017 and any interference will occasion her irreparable loss and damage unless this court intervenes urgently.

p) **THAT** the Applicant has made developments on the suit land which are, she has built semi-permanent houses, planted trees, mangoes, oranges, banana stems, zero grazing, does subsistence farming and generally developed the parcel of land.

q. **THAT** the Respondents actions are in contravention of Article 27 of the constitution that guarantees freedom and equality from discrimination by discriminating against the Applicant mainly because she is a Kikuyu woman who has lost her husband.

r. **THAT** the intended action of the Respondents in evicting the Applicant is not **bona fide, smacks of malice, bias, oppressive, discriminatively against** the Applicant, therefore void *ab initio*, unlawful and inoperative.

s. **THAT** the intended eviction by the Respondents is to say the least, traumatizing undignified, irresponsible, shocking, careless, sudden, smacks of arrogance and impunity.

t. **THAT** the fraudulent registration in the name of the 1<sup>st</sup> Respondent and intended eviction of the Applicant is a flagrant violation of the Applicant's constitutionally guaranteed rights, such as right to equality dignity, right to property and fair hearing.

u. **THAT** the constitution binds all organs of the state and parties and therefore the Honourable Court is to uphold, protect and defend the Constitution and other Statutes and further state and aver that;

i) No prejudice is likely to be suffered by the Respondent if the orders sought herein are granted.

ii) The Applicant has a right of access to the Court to safeguard the articles of the Constitution and Statutes which have been, are being and are in danger of further infringement by the Respondent.

v. **THAT** Articles 27, 28, 40 and 50(2) of the Constitution will be violated if the Environment and Land Court does not uphold the supremacy of the Constitution.

w. **THAT** the orders sought are pursuant to the Environment and Land Court's duty to promote and safeguard constitutionalism and the rule of law.

x. **THAT** It is only fair, just, equitable and in the interest of justice that pending the hearing and determination of the Application inter-parties, the court issues the orders as prayed for.

y. **THAT** this Honourable Court has a right to interpose by way of injunction to restrain the Respondents from carrying out any intended/threatened acts of eviction or interference with the quiet, peaceful enjoyment and occupation or that which infringes on the rights of the Applicant and the Applicant has established a *prima facie* case.

z. **THAT** the balance of convenience tilts in favour of the applicant.

**aa. THAT** the Applicant has not delayed in bringing this application to court for determination.

**bb. THAT** In the premises it is the humble prayer of the Applicant that the injunctive and other consequential orders be issued against the Respondents.

**cc. THAT** the Respondents actions are in contravention of Article 40 of the constitution on the right to own property.

**dd. THAT** It is therefore imperative that the Respondent should not be allowed to benefit from his own wrongdoing.

**ee. THAT** the Applicant stands to suffer irreparable loss incapable of being remedied by way of damages if the orders sought are not granted as she stands to lose her parcel of land which she has been occupying legally.

**ff. THAT** the grant of the orders sought will not occasion the Respondents any prejudices incapable of being remedied by way of damages.

**gg. THAT** It is only fair and in the interest of justice that the Applicants are granted the orders sought herein.

**hh.** Unless restrained by this Honourable Court, nothing will stop the 1<sup>st</sup> and 2<sup>nd</sup> Respondents from evicting the Applicant from her matrimonial home in parcel No. LR NO.KIERA/MAGUTUNI/98 and interfere and deny the Applicant accessibility to her husband's grave. Further the Applicant and her children will lose their land and be left destitute and homeless.

**Amended at NAIROBI on this.....7<sup>th</sup> .....day of ...October,.....2020.**

**OKWEH ACHIANDO & COMPANY**

**ADVOCATES FOR THE APPLICANT**

3. The application is supported by the affidavit of **ESTHER MUGURU** which states:

**SUPPORTING AFFIDAVIT**

I, **ESTHER MUGURU NJERI NJOROGI MICHENI**, a female adult of sound mind residing and working for gain in **Chogoria** within the Republic of Kenya and of Post Office Box Number 44-60400 **Chuka**, do hereby make oath and state as follows:

1. **THAT** I am the Applicant herein, well versed with the facts herein hence competent to swear this Affidavit in support of the Notice of Motion Application filed herewith.

2. **THAT** I make this affidavit in support of my present Application by Notice of Motion for the orders enumerated in the Notice of Motion herein to stop my eviction from suit land No. LR NO.KIERA/MAGUTUNI/98.

3. **THAT** on or about 12th August, 2020 I applied for letters of Administration ad litem at the High Court Chuka.

4. **THAT** upon Application my Advocates on Record herein were advised by the High Court Registry officials that the Judge had proceeded on vacation and we should file the matter at the Magistrate's Court at Chuka which we subsequently did. The Application for Letters of Administration Ad Litem was granted by the Court on 17th August, 2020 and received by my Advocates Law Firm on 28th August, 2020.

**It is now produced and shown to me and marked "EMNNM1-1" the limited Grant of Letters of Administration Ad Litem**

5. **THAT** the suit land number measuring about **4.50 Ha** is currently registered in the name of the 1<sup>st</sup> Respondent herein.

**It is now produced and shown to me and Annexed marked as "EMNNM1-2" is a true copy of the Certificate of Official Search.**

6. **THAT** the facts of this case are detailed immediately hereinafter.

7. **THAT** I got married to the late Mr. Carey Micheni Munyu in or about 1980.

8. **THAT** the Marriage was blessed with four issues namely, John Mawira Micheni, Aileen Kathambi Micheni, Grace Muthoni Micheni and Sophia Micheni.

9. **THAT** the deceased was the first born son of the 2<sup>nd</sup> Respondent and the brother of the 1<sup>st</sup> Respondent who lived quietly with his family at Karia.

10. **THAT** I and my late husband were requested by the 2<sup>nd</sup> Respondent to move from Karia to Njagini next to the 2<sup>nd</sup> Respondent's place where we made development on the land by constructing a semi-permanent house, planted trees, Mangoes, bananas and food crops. However before we moved to Njagini from Karia we had started constructing our house there. Unfortunately my husband fell sick and subsequently

passed away on 29<sup>th</sup> January, 2017 and was buried in Njagini.

11. **THAT** the 2<sup>nd</sup> Respondent's ordering me back and allocating me parcel No. LR NO.KIERA/MAGUTUNI/98 as the beneficial owner was informed by the following reasons:

- a) My Mother-in-law was seriously sick and there was nobody to take care of her and the 2<sup>nd</sup> Respondent;
- b) The 2<sup>nd</sup> Respondent wanted to be closer to his grandchildren.
- c) He was concerned with our safety as Karia where the Applicant and her family were staying had people who were claiming title to the land. To avoid such conflict the 2<sup>nd</sup> Respondent decided that the Applicant moves to Njagini next to where the 2<sup>nd</sup> Respondent is residing.

12. **THAT** the 2<sup>nd</sup> Respondent assured me of her security of tenure and occupation of the land parcel No. LR NO.KIERA/MAGUTUNI/98 that nobody would interfere with my enjoyment and quiet occupation of land and even assisted me financially in the completion of the house I had started constructing with my late husband. On or about April 2017 I moved from Karia to my house in Njagini Village.

13. **THAT** on or about 25<sup>th</sup> June, 2020, I went to the land Registry and did a land search on parcel No. LR NO.KIERA/MAGUTUNI/98 and found out that it was registered on 5<sup>th</sup> April, 2020 in the name of the 1<sup>st</sup> Respondent without consulting me or my knowledge.

14. **THAT** to my consternation, surprise and disbelief, the 1<sup>st</sup> Respondent issued me he Applicant with a demand letter dated 1<sup>st</sup> July, 2020 demanding that the Applicant should stop trespassing on the said parcel of land within a period of 3 months.

15. **THAT** upon my investigation as to why the 1<sup>st</sup> Respondent registered parcel no LR NO.KIERA/MAGUTUNI/98 in his name, I was informed that being a Kikuyu I was therefore not entitled to be allocate land in Meru. The other reason is that being a Kikuyu I will sell the parcel of land and run way.

16. **THAT** my family and I occupied the suit land sometimes in April 2017 long before the 1<sup>st</sup> Respondent fraudulently acquired the title and have since been in open, exclusive, continuous and uninterrupted occupation.

17. **THAT** on or about 3<sup>rd</sup> October 2019 I was informed by Mr. Justus Kiruki Munyua that the 1<sup>st</sup> Respondent wanted me to go back to Karia and leave the land at Njagini Village.

18. **THAT** once I learned that the 1<sup>st</sup> Respondent wanted me to go to Karia, I planned for several meetings with the Respondents and other members of the family in order to settle the matter but these meetings came to nought as a result of frustrations by the 1<sup>st</sup> Respondent who always indicated that he had other business to attend to.

19. **THAT** on or about 2<sup>nd</sup> January, 2020 I called the elders to become witnesses of the meeting and the 1<sup>st</sup> Respondent chased them away stating that the 2<sup>nd</sup> Respondent does not talk as he is too old to handle the issue of land.

20. **THAT** on 5<sup>th</sup> January, 2020 I went and had a conversation with the area Chief Mr. Stanley Marangu who was together with the sub-chief Mr. Gilbert Munyua to help intervene in the matter. The Chief advised me that the best person to settle the dispute was the 2<sup>nd</sup> Respondent.

21. **THAT** I approached the 2<sup>nd</sup> Respondent who seemed scared and informed me that I should go for assistance from the sub-area village Chief.

22. **THAT** I thought against it as the sub area village chief are good friends with the 1<sup>st</sup> Respondent.

23. **THAT** on or about 10<sup>th</sup> June, 2020 the village manager Mr. Moffat Mbabu came to my house and informed me that on 12<sup>th</sup> June ,2020 we would have a meeting.

24. **THAT** on or about 12<sup>th</sup> June 2020 I attended the said meeting where the 2<sup>nd</sup> Respondent , Justus Kiriki Munyua ,Dorcas Wanja ,Kenti Njeru ,Stanley Maragu ,the Chief ,Assistant Chief Gilbert Munyua and the Unit Manager Betty Kagendo Kubai were all in attendance.

25. **THAT** during the said meeting held on 12<sup>th</sup> June, 2020, the chief interjected and stated that no one should talk on behalf of the 2<sup>nd</sup> Respondent and that he was there to talk about the happenings of the day.

26. **THAT** I know of my own knowledge that Franklin Rutere pointed out that some family members were not present in the meeting like the ones in Nairobi but the Chief told him to sit down.

27. **THAT** when the 2<sup>nd</sup> Respondent was given an opportunity to talk he said that he would not speak because there was something he had discussed with the late wife Edith Gata and he would wait for the 1<sup>st</sup> Respondent to come back and together with Justus Kiruki Munyua he would call another meeting.

28. **THAT** on or about 13<sup>th</sup> June 2020 I called Linus E. Kinyaki and some Clan elders and informed them of the problem and they gave their authority to call the clan.

29. **THAT** on or about 15<sup>th</sup> June, 2020 when I had gone to the offices of the District Officer to get a permit to convene a meeting, the chief and the sub chief came to the 2<sup>nd</sup> Respondent's house and sent for me but they were told I was away.

30. **THAT** the sub –chief informed my son and the cousin that they needed to attend a meeting.

31. **THAT** on arrival they found Prof. Justus Kiriki Munyua, Dorcas Wanja, Kenti Njeru, the 2<sup>nd</sup> Respondent, Njeru Mbaka, Chief, Sub-chief and the Unit manager Betty Kagendo Kubai were all in attendance.

32. **THAT** I know of my own knowledge that during the meeting my daughter Aileen Kathambi called from Germany where she stays and requested to talk to the 2<sup>nd</sup> Respondent but she was informed that the 2<sup>nd</sup> Respondent does not talk instead the phone was given to Prof. Justus Kiriki Munyua Munyua.

33. **THAT** I Know of my own Knowledge that no member of the Clan and the sub-clan were given an opportunity to say anything in the meeting. I further state that the Clan members decided that they had decided to protect me not to be unsettled again by the Respondents' and my sister-in law Dorcas Wanja by expelling me from the grave of my husband which was unheard of.

**It is now produced and show to me and Annexed marked as "EMNNM1-3" is a true copy of the minutes of the meeting held on 22<sup>nd</sup> June, 2020**

34. **THAT** the Respondents' actions are therefore nothing but a scheme to unlawfully deprive me of the said parcel of land that has been my home because of the fact that I am a Kikuyu woman.

35. **THAT** I am advised by my Advocates on record which advise I verily believe to be true that Section 26 of the Land Registration Act provides that the certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge except under the following circumstances;

- a) on grounds of fraud, or misrepresentation to which to which the person is proved to be a party; or
- b) where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.

36. **THAT** I am further advised by my Advocates on record which advise I verily believe to be true that the 1<sup>st</sup> Respondent's actions are in clear violation of the law as he has acquired the said title by way of malice, fraud, misrepresentation of facts and unprocedurally and in collusion or connivance with the 2<sup>nd</sup> Respondent.

37. **THAT** I am advised by my Advocate on record which advise I verily believe to be true that the particulars of malice in acquiring the title by the 1<sup>st</sup> Respondent are;

- a) Calling for meetings whose outcome had been pre-determined
- b) Refusing the 2nd Respondent and myself to speak in the meeting
- c) Failing to give me any notice of the registration of parcel No. LR NO.KIERA/MAGUTUNI/98.
- d) Humiliating me and my witnesses in the meeting without giving them an opportunity to state their case adequately.
- e) Proceeding to register parcel No. LR NO.KIERA/MAGUTUNI/98 without any basis or justification for doing so.
- f) Failing to give me a fair hearing or any hearing at all before proceeding to register parcel No. LR NO.KIERA/MAGUTUNI/98.
- g) Registering parcel No. LR NO.KIERA/MAGUTUNI/98 knowing that the 1st Respondent is a foreigner not entitled to register such land without the permission of the President of the Republic of Kenya.
- h) Interfering with my quiet possession of parcel no LR NO.KIERA/MAGUTUNI/98.

38. **THAT** the Respondents' actions therefore amount to an inexcusable illegality and should be stopped forthwith.

39. **THAT** it is therefore imperative that the Respondents should not be allowed to benefit from their own wrongdoing.

40. **THAT** I am afraid that the Respondents may alienate the suit land at any time and I will be at risk of being evicted from the place I have called my home for 4 years.

41. **THAT** without a court order my family and I shall be in a very precarious position as we can be made beggars instantly.

42. **THAT** I verily believe I have a good case against the Respondents and pray that my application be allowed.

43. **THAT** I stand to suffer irreparable loss incapable of being remedied by way of damages if the orders sought are not granted as I stand to lose the said parcel of land that I have built my home and where my husband is buried.

44. **THAT** it is only fair and in the interest of justice that I be granted the orders sought herein.

45. **THAT** Unless restrained by this Honourable Court, nothing will stop the 1<sup>st</sup> and 2<sup>nd</sup> Respondents from evicting the Applicant from her matrimonial home in parcel No. LR NO.KIERA/MAGUTUNI/98 and interfere and deny the Applicant accessibility to her husband's grave. Further the Applicant and her children will lose their land and be left destitute and homeless.

46. **THAT** the facts deponed hereto are true to the best of my knowledge, save for facts based on information sources whereof have been stated and facts based on belief grounds whereof have been given.

**Sworn at Nairobi this...7<sup>th</sup> .....day of.....October,.....2020**

4. When the application came up for hearing on **14.10.2020** it transpired that it was not opposed.

5. In the circumstances, the application is allowed and for avoidance of doubt, prayer 8 is granted to the effect that an inhibition is hereby issued to be registered against parcel No. **KIERA/EAST MAGUTUNI/98** to restrict any dealings or transfer of the said land and the District Land Registrar Chuka is hereby directed to register the inhibition pending hearing and determination of this suit.

6. The defendants are granted 14 days to respond to the application, file their defence and comply with order 7 CPR.

7. Parties are granted liberal leave to further respond as and if necessary before the next date for directions.

8. Parties are ordered to **come back** to court on **8.12.2020** for **further directions**.

Delivered in open Court at Chuka this **14<sup>th</sup> day of October, 2020** in the presence of:

CA: Ndegwa

Okweh Ochiambo for the Plaintiff

Njeru Ithiga for the defendants

**P. M. NJORGE,**

**JUDGE.**

3. On 8/12/2020, by consent, the parties agreed;

a) That hearing of the suit proceeds on 17/3/2021.

b) That the extant orders are confirmed and that the application dated 7<sup>th</sup> October, 2020 be deemed as heard and determined with costs to be in the cause.

c) Parties are granted liberal leave to respond and further respond, as and if necessary, at least up to 3 days before the hearing date.

d) Orders issued by the court today be served upon the 3<sup>rd</sup> defendant within 10 days of today.

Delivered in open Court at Chuka this **8<sup>th</sup> day of December, 2020** in the presence of:

CA: Ndegwa

Njeru Ithiga for 1<sup>st</sup> and 2<sup>nd</sup> defendants.

By zoom Achiando for the plaintiff.

**P. M. NJORGE**

**JUDGE**