



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

JUDICIAL REVIEW NO. 16 OF 2018

**IN THE MATTER OF APPROVAL FOR BUILDING OF TEMPORARY STRUCTURE & ACCEPTANCE OF LAND RENT IN
MERU MUNICIPALITY BLOCK 11/287**

AND

IN THE MATTER OF AN APPLICATION FOR AN ORDER OF MANDAMUS BY WAY OF JUDICIAL REVIEW

BETWEEN

REPUBLIC.....APPLICANT

AND

THE COUNTY GOVERNMENT OF MERU.....1ST RESPONDENT

THE PHYSICAL PLANNER MERU COUNTY.....2ND RESPONDENT

AND

STEPHEN MICHUKI M'KIUNGA.....EXPARTE APPLICANT

RULING

1. On 30.1.2019, counsel for respondent sought to abandon their replying affidavit filed on 28.11.2018 in lieu of a freshly filed one (filed on 29.1.2019) on the basis that the earlier one had no annexures.
2. This application was objected to by counsel for the exparte applicant who averred that it was unprocedural as they had already filed their rejoinder via a supplementary affidavit. It is also averred that the new affidavit has raised new issues.
3. I find that it is certainly unprocedural for parties to file documents haphazardly without leave of the court. It is also messy. It is however not fatal and such documents are not necessarily inadmissible. The hitch can be cured by making an application to have the documents admitted and laying a basis for the introduction of the same. Respondents counsel has met this criteria as they have stated that they are introducing annexures which were omitted in the earlier affidavit.
4. I therefore allow the application by the respondent to abandon the earlier affidavit of 28.11.2018 and the new affidavit of 29.1.2019 is hereby admitted as a proper document.
5. The exparte applicant is at liberty to still file any further affidavit in rejoinder to the response of 29.1.2019

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 6TH MARCH, 2019 IN THE PRESENCE OF:-

C/A: Kinoti

M. Kariuki for respondent

HON. LUCY. N. MBUGUA

