



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT MERU**

**ELC JR NO. 52 OF 2011**

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL ORDERS OF CERTIORARI**

**AND**

**IN THE MATTER OF SECTION 8 AND 9 OF THE LAW REFORM ACT (CAP 26 LAWS OF KENYA)**

**AND**

**IN THE MATTER OF THE LAND CONSOLIDATION ACT (CAP 283 LAWS OF KENYA)**

**AND**

**IN THE MATTER OF THE LAND ADJUDICATION ACT (CAP 284 LAWS OF KENYA)**

**AND**

**IN THE MATTER OF OBJECTION NO. 2997 AND 2998**

**AND IN THE MATTER OF LAND PARCEL NO'S 842 AND 1863**

**BETWEEN**

**REPUBLIC.....APPLICANT**

**VERSUS**

**THE DIRECTOR LAND ADJUDICATION**

**AND SETTLEMENT OFFICER.....1<sup>ST</sup> RESPONDENT**

**THE DISTRICT LAND ADJUDICATION AND**

**SETTLEMENT OFFICER TIGANIA DISTRICT.....2<sup>ND</sup> RESPONDENT**

**JOSEPH MIRITI THILANGE.....INTERESTED PARTY**

**FREDRICK SIMON MBURUNGA.....EXPARTE APPLICANT**

**HUMPHREY MURURU MBURUNG'A.....EXPARTE APPLICANT**

**RULING**

1. On 29.1.2019 the Ex-parte applicant sought for more time to file an amended notice of motion, (7 days to be precise) which application was opposed by the Attorney General and the Interested Party on the basis that this Judicial Review motion has stalled for many years courtesy of the Ex-parte applicant.

2. I have perused the record where I have found that this Judicial Review suit has marked time in court for the last 7 years and counting, primarily because of numerous applications filed by the Ex-parte applicant and because of non-compliance with court orders.
3. I will however deal with the recent record, particularly the one concerning the application dated 29.5.2018 to have the Substantive Motion and the statements of facts amended. That application was allowed on 18.10.2018 and the Judicial Review suit was scheduled for hearing on 18.12.2018 before a visiting Judge. This was in consideration that the courts country wide were undertaking an exercise of clearing all cases which were more than five years old, whereby this matter fell under that category.
4. However, the chance to have this matter dealt with expeditiously slipped away on 18.12.2018 simply, because the Ex-parte applicant sought for 14 more days to file the amended notice of motion. The court indulged them which meant that the amended documents ought to have been filed and served by 2.1.2019.
5. However, when the matter came up before me on 29.1.2019, the Ex-parte applicant was still seeking more time to file the amended notice of motion.
6. This court has a constitutional mandate stipulated under **article 159 (2) of the constitution** as follows; “**Justice shall not be delayed**”.
7. **Section 1B of the civil procedure Act** further provides that;

*“For the purpose of furthering the overriding objective specified in section 1A, the Court shall handle all matters presented before it for the purpose of attaining the following aims—*

*(a) the just determination of the proceedings;*

*(b) the efficient disposal of the business of the Court;*

*(c) the efficient use of the available judicial and administrative resources;*

*(d) the timely disposal of the proceedings, and all other proceedings in the Court, at a cost affordable by the respective parties.*

8. Further, section 1A (3) of Civil procedure Act provides that “**A party to civil proceedings or an advocate for such a party is under a duty to assist the Court to further the overriding objective of the Act and, to that effect, to participate in the processes of the Court and to comply with the directions and orders of the Court**”.
9. The Ex-parte applicant doesn’t deserve more indulgence from this court. I decline to grant any further extension. It is not fathomable that a simple procedural exercise has caused this matter to stall since October 2018 when the application to amend was allowed.
10. I direct that directions be taken forthwith on how the substantive motion is to be heard, and the court will not entertain any other applications in this matter.

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

C/A: Kinoti

Gikonyo holding brief for Ndubi for Interested party

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**