

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA

ELC CASE NO. 153 OF 2017

FRANCIS NYAGA & 69 OTHERS.....PLAINTIFFS

VERSUS

NATIONAL IRRIGATION BOARD.....DEFENDANT

RULING

[1] I have perused the Notice of Motion filed in Court on 15th November 2012 plus the supporting affidavit of one Francis Nyaga sworn on 15th November 2017. I have also looked at the plaint filed on the same date.

[2] I have equally perused the replying affidavit sworn on 23rd April 2018 and filed in Court on 24th April 2018 and the annexures filed therein. I note the plaint and the Notice of Motion ask for exactly the same thing. Determining the Notice of Motion will be tantamount to determining the suit. That will not be desirable. I also note that the suit is filed on behalf of other people. I find no authority to act for those people in the Court file.

[3] It is not prudent or desirable to grant the orders sought at this stage. The suit should be fixed for hearing on merits.

Costs of this application shall be in the suit.

READ and SIGNED in open Court at Kerugoya this 4th day of March 2019.

E.C. CHERONO

ELC JUDGE

4TH MARCH, 2019

In the presence of:

1. Ms Wanjiru Njuguna - present
2. Plaintiff/Advocate – absent
3. Mr. Mbogo Court clerk – present