



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC MISC. NO. 7 OF 2019

ALICE KARUTA MUCHENA.....1ST APPLICANT

MARK ANTHONY MWENDA.....2ND APPLICANT

FREDA KAGWIRIA.....3RD APPLICANT

RACHEAL NKATHA..... 4TH APPLICANT

JANICE KATHURE.....5TH APPLICANT

VERSUS

ZAKAYO MUCHENA..... 1ST RESPONDENT

ANTHONY KAUNGA.....2ND RSPONDENT

RULING

1. In the application dated 5.2.2019 the applicants are seeking orders that:

(i) Spent.

(ii) Tigania PMCC No. 49 of 2017 (formerly CMCC NO. 199 of 2011) between the applicants herein as the plaintiff and the respondents herein as the defendant therein, be withdrawn from the Tigania principal Magistrate's court and be retransferred back to Meru Law Courts for judgment writing.

(iii) Costs of this application be in the cause.

2. The grounds in support of the application are that;

(i) The said case was mistakenly transferred to Tigania Law Court, yet the matter had been fully heard by the Chief Magistrate's Court Meru and was awaiting judgment to be written.

(ii) For judgment to be written, it is only fair that the same be written in Meru.

3. There is also a supporting affidavit sworn by counsel for the applicants.

4. The two respondents have filed replying affidavits in opposition to the application, where they aver that the suit land is situated in Kianjai adjudication section which is within the jurisdiction of Tigania Court. They also aver that the magistrates who heard the case in Meru Chief Magistrate's court have already left the station (at Meru).

5. I have perused this file and I find that the main reason as to why applicant is seeking for the retransfer of the file back to Meru CMCC court is because matter was heard in Meru and was only pending judgment writing.

6. However, it has emerged that the case was heard by Honourable D.O Onyango and Honourable C. Kutwa. These magistrates are no longer in the station at Meru law Court. It follows that even if the file was to be re-transferred back to Meru, the matter would be handled by a new magistrate.

7. It has also been alleged by the respondents that the suit land falls within Kianjai adjudication section which is in Tigania. Applicants have not rebutted that averment.

8. It follows that allowing the application would in essence create more hurdles in the finalization of the case.

9. This application is hence dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 25TH DAY OF APRIL, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Miss Munga for applicant

C.P Mbaabu holding brief for Nyamu Nyaga for respondent

2nd respondent

HON. LUCY. N. MBUGUA

ELC JUDGE