

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E & L CASE NO. 318 OF 2016

TERESIA WANJIKU

(Suing as the Legal Representative/Donee of PHILIP WAKABA)...PLAINTIFF

VERSUS

CHEROMIT DEVELOPMENT COMPANY..... DEFENDANT

RULING

The defendant has raised a preliminary objection that the plaintiff's suit offends the mandatory provision of Order 9, Rule 2 of the Civil Procedure Rules, 2010 as the plaintiff failed to seek the approval of the court before filing the suit herein.

That the plaintiff did not have proper authority to institute the present proceedings in any event. The preliminary objection is not controverted by the plaintiff.

Order 9, Rule 2 of the Civil Procedure rules 2010 provides that the recognized agents of parties by whom such appearances, applications and acts may be made or done are subject to approval by the court, persons holding powers of attorney authorizing them to make such appearances and applications and do such acts on behalf of parties.

The Special Power of Attorney relied upon by the plaintiff is neither signed nor registered. I do find the same to be irregular, null and void. The suit herein is a nullity having been filed without approval of the court and without capacity. The preliminary objection is upheld the suit as struck out.

Dated and delivered at Eldoret this 10th day of April, 2019.

A. OMBWAYO

JUDGE