



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 01 OF 2019

IN THE MATTER OF LAND PARCEL NO. SOUTH THARAKA/TUNYAI 'A'/390

IN THE MATTER OF SECTIONS 7, 37 AND 38 OF THE LIMITATION OF ACTIONS ACT AND ORDER 37 RULE 8 OF THE CIVIL PROCEDURE RULES

BETWEEN

JAMES MUTUGI MWITHI.....PLAINTIFF

VERSUS

DEDAN MUGO MWANGI.....DEFENDANT

RULNIG

1. This application is dated **26th day of February, 2019** and seeks orders:

- a) That the plaintiff/applicant be given leave to serve the Originating Summons in this case on the defendant, Daniel Mugo Mwangi by advertising it once in the Daily Nation Newspaper.
- b) That the costs of this application be costs in the cause.

2. The application is supported by the affidavit of JAMES MUTUGI MWATHI sworn on **21st February, 2019** and has the following grounds:

1. This suit was filed on 22nd January, 2019 by my advocates on my instructions.
2. Since filing the same I have made efforts to trace the defendant and have him served with the originating summons, but my efforts have been fruitless.
3. It is imperative that the originating summons must be served before this suit is heard, hence the necessity for the order sought.

3. Mr. Kaai Mugambi, the plaintiff's advocate, asked the court to allow service by way of substituted service because he had not been able to trace the defendant.

4. I have considered the circumstances surrounding the application and find it has merit.

5. The application is allowed with costs to be in the cause.

6. Service by way of substituted service through the Daily Nation Newspaper to be executed within 30 days of today.

7. **Directions on 10th June, 2019.**

Delivered in open Court at Chuka this 8th day of April, 2019

in the presence of:

CA: Ndegwa

Mr. Kaai Mugambi for the plaintiff

P.M. NJORGE

JUDGE