

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E & L CASE NO. 46 OF 2018

NAOMI CHEPKERING BITOK.....PETITIONER/RESPONDENT

VERSUS

ENOCK KIPKIRONG BITOK.....1ST DEFENDANT/APPLICANT

AMOS KIBET BITOK.....2ND DEFENDANT/APPLICANT

SAMMY KIPKORIR BITOK.....3RD DEFENDANT/APPLICANT

RULING

Before me, is the application dated 5.11.2018 filed by defendants seeking orders that they be allowed to construct a bathroom, pit latrine and temporary structures as a home and store on their share of the land as per the consent order dated 6th March, 2018. The application is based on grounds that the 1st applicant and the respondent got married on 27.10.1995 at the Registrar's Office in Uasin Gishu County. The 1st defendant has instituted divorce proceedings against the respondent vide Eldoret CMCC Divorce Case No. 74 of 2018 between Enock Bitok and Naomi Chepkering.

The divorce proceedings and subsequent matrimonial case would be rendered superfluous in the event that this court proceeds to hear and determine the Petition dated 28.2.2018.

The applicant states that the property is governed by Matrimonial Property Act, 2014. The proceedings for divorce are pending hearing and determination.

I have considered the application and do find that the plaintiff suffers no prejudice, it is allowed. I have not seen a replying affidavit by the respondent. I do grant the application; thus, the defendants be allowed to construct a bathroom, pit latrine and temporary structures as a home and store on their share of the land as per the consent order dated 6th March, 2018. Orders accordingly.

Dated and delivered at Eldoret this 8th day of April, 2019.

A. OMBWAYO

JUDGE