



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 215 OF 2017

FORMERLY MERU ELC. 08 OF 2015

FORMERLY EMBU ELC. 266 OF 2015

MUTEGI MUGWETWA.....PLAINTIFF

VERSUS

COUNTY MINISTRY OF LANDS,

PHYSICAL PLANNING ENERGY & ICT COUNTY

GOVERNMENT OF THARAKA NITHI.....1ST DEFENDANT

COUNTY GOVERNMENT OF

THARAKA NITHI DIRECTOR GENERAL.....2ND DEFENDANT

THE DIRECTOR GENERAL

(KENYA URBAN RURAL AUTHORITY).....3RD DEFENDANT

KENYA URBAN ROADS AUTHORITY.....4TH DEFENDANT

THE REGIONAL MANAGER-UPPER EASTERN

(KENYA URBAN ROADS AUTHORITY)..... 5TH DEFENDANT

TERRITORIAL WORKS (K) LTD.....6TH DEFENDANT

AND

CHUKA IGAMBANG'OMBE

DEVELOPMENT ASSOCIATION.....INTERESTED PARTY

RULING

1. Oral hearing of this suit was closed on **1st April, 2019**. The parties agreed to write and exchange written submissions.
2. Advocate Martin Njeru, for the plaintiff told the court that order 18 Rule 2 of the Civil Procedure Rules suggests that the defendants should file and exchange written submissions first. Advocates representing the other parties asked the court to give apposite directions.
3. I find it necessary to reproduce the provisions of Order 18 Rules 1 and 2 herebelow so that the pertinent issue is cast into its proper perspective. Rules 1 and 2 state as follows:

“Unless the court otherwise orders:

1. On the day fixed for the hearing of the suit, or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues he is bound to prove.

2. The other party shall then state his case and produce his evidence, and may then address the court generally on the suit. The party beginning may then reply.”

4. I note that rule 2 uses the words “may” twice with respect to addressing the court and replying to that address. The court, however, has the discretion to direct how the parties should move.

5. In my view, Order 18 Rules 1 and 2 relate to proceedings conducted orally. It does not embrace written submissions.

6. It is ordered as follows:

1. The plaintiff is required to file and exchange written submissions within 21 days of this ruling and all other parties to do so within 21 days after receipt of the plaintiff’s written submissions.

2. All submissions must be filed both in hard and soft copies.

3. Parties, by consent, are to come to court for **directions on 22nd May, 2019.**

Delivered in open Court at Chuka this 1st day of April, 2019

in the presence of:

CA: Ndegwa

Njeru for the Plaintiff

Kiongo hb Murango Mwenda for 1st and 2nd defendants

Kiongo for 3rd, 4th and 5th defendants

P. M .NJOROGE,

JUDGE.