



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CIVIL APPEAL CASE NO. 08 OF 2018

FORMERLY MARIMANTI CIVIL CASE NO. 37 OF 2017

M'MBOROKI THURAINÉ.....APPELLANT

VERSUS

M'IKIAO LAIKURU.....1ST RESPONDENT

STANELY KIRIA MITAMBO.....2ND RESPONDENT

DISTRICT LAND ADJUDICATION

OFFICER THARAKA DISTRICT.....3RD RESPONDENT

THE HON. ATTORNEY GENERAL.....4TH RESPONDENT

RULING

1. On **8th May, 2019**, this court had issued the following orders:-

- a) The intended appellant to file and serve a record of appeal within 14 days of today to enable the court to admit or refuse to admit the appeal.
- b) Intended appellant to serve the orders issued today upon the respondents within 5 days of today.
- c) Directions on 28.5.2019

2. On **28th May, 2019**, Mr. Mark Muriithi, holding brief for Mr. Mwanzia, the intended appellant's advocate told the court that Mr. Mwanzia was trying to access the lower courts at Marimanti and that was given as the excuse why he had not filed and served the apposite record of appeal as ordered by the court on **8th May, 2019**. He asked the court to give Mr. Mwanzia 7 days to file and exchange the record of appeal. Mr. Kaimba, holding brief for Mr. Murango Mwenda, the respondents' advocate, told the court that his instructions were to ask the court to summarily dismiss the appeal for disobedience of court orders. However, as Mr. Muriithi had asked the court to indulge Mr. Mwanzia by giving him seven days to file and exchange the record of appeal, he asked the court to give him the requested seven days and to dismiss the intended appeal should he not file and exchange the record of appeal within the stipulated time.

3. It is clear that the Deputy Registrar, Chuka ELC Court, wrote to the parties on **9th April, 2019** and informed them that the lower court's file had been brought to Chuka. Ipso facto, the lawyer representing the Intended Appellant did not have any satisfactory reason for not filing and exchanging the apposite record of appeal as ordered by the court on **8th May, 2019**. However, in view of the request that he be granted seven days to file and exchange the necessary record of appeal, this court will indulge him.

4. The following orders are issued:

- a) The intended appellant is directed to file and exchange his record of appeal and to properly serve it upon the respondents within 7 days **FAILING** which the appeal may be summarily dismissed.
- b) By consent, parties are to come to court on **16th June, 2019** for directions regarding compliance with this court's orders issued today.

Delivered in open Court at Chuka this 28th day of May, 2019 in the presence of:

CA: Ndegwa

Muriithi h/b Mwanzia for the Intended Appellant

Kaimba h/b Murango for the Intended Respondent

P. M. NJORGE

JUDGE