



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. This court has been urged by Mr. Murango Mwenda for the 1st and 2nd defendants, who is also holding brief for M/s Kungu for the 3rd, 4th and 5th defendants and for Mr. Rono for the Interested party, to expunge the plaintiff's submissions from the court's record for having been filed 4 months after the deadline given by the court and in flagrant violation of court orders.
2. Mr. Murimi, for the plaintiff, told the court that his office had been broken into and this unfortunate occurrence contributed to the delay in filing of the plaintiff's submissions.
3. The court notes that this is the 2nd time the plaintiff had failed to file his submissions as directed by the court. On **1st April, 2019**, he was directed to file and serve his submissions within 21 days. The defendants and the Interested party were to do so within 21 days of receipt of the plaintiff's submissions. On **22nd May, 2019**, the plaintiff had not filed apposite submissions. As a result, the other parties could not file their submissions.

Cumulatively, therefore, the plaintiff has caused a delay of close to six months.

4. I have carefully considered the oral application by Mr. Murango Mwenda, who today represents the defendants and the Interested Party. Having taken into account that this suit has been conclusively heard and in the interest of justice, I am constrained to deem the plaintiff's submissions as having been filed in court. I opine that though submissions are useful in that they highlight apposite issues, including legal principles, courts of law make Judgments in accordance with the evidence tendered by the parties.

5. I direct the defendants and the Interested Party to file their written submissions within 14 days of today.

6. The parties are directed to come to court for **directions, by consent**, on **7th October, 2019** and to ensure that they have filed copies of their written submissions.

7. It is so ordered.

Delivered in open court at Chuka this 23rd day of September, 2019 in the presence of:

CA: Ndegwa

Murimi for the Plaintiff

Murango Mwenda for the 1st and 2nd defendants

Murango Mwenda h/b for the 3rd, 4th and 5th defendants and for the Interested Party.

P. M .NJOROGE,

JUDGE