



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAKURU

CASE No. 187 OF 2014

HADIJA NJERI KAMAU.....PLAINTIFF

VERSUS

ABDALLA TAIRARA GODORO.....1ST DEFENDANT

HERODHO SHEIKH BIN SHEIKH.....2ND DEFENDANT

RULING

1. This ruling is in respect of plaintiff's Notice of Motion dated 2nd July 2019, an application seeking an order that this suit be consolidated with **Nakuru ELC No. 186 of 2014 Hadija Njeri Kamau vs Abdalla Tairara Godoro & Herodho Sheikh Bin Sheikh** and further that both cases be listed for pre-trial on 15th October 2019. The applicant further prays that costs be in the cause.

2. The application is supported by an affidavit sworn by the applicant. She deposed that she is also the plaintiff in **Nakuru ELC No. 186 of 2014 Hadija Njeri Kamau vs Abdalla Tairara Godoro & Herodho Sheikh Bin Sheikh** and that the said suit arises from the same transaction as this suit and that the same set of witnesses and documents will be relied on. She stated that following demise of the original plaintiff in this case, she was substituted in his place pursuant to the ruling dated 20th June 2019. She added that **Nakuru ELC No. 186 of 2014 Hadija Njeri Kamau vs Abdalla Tairara Godoro & Herodho Sheikh Bin Sheikh** is scheduled for pre-trial conference on 15th October 2019 and that it would save judicial time if both matters are consolidated.

3. The application was duly served on the defendants in this case who are also the defendants in **Nakuru ELC No. 186 of 2014**. No response was filed by them. They did not also attend court at the hearing of the application.

4. Whenever there are common questions of law or fact arise in two or more matters or where the reliefs claimed are in respect of the same or series of transactions, consolidation is a handy tool which helps the court to achieve efficiency in the hearing and disposal of the suits. The Court of Appeal stated in ***Stumberg And Another vs Potgeiter 1970 E.A. 323*** as follows:-

Where there are common questions of law or facts in actions having sufficient importance in proportion to the rest of each action to render it desirable that the whole of the matters should be disposed of at the same time, consolidation should be ordered

5. I have had the benefit of perusing the file in **Nakuru ELC No. 186 of 2014 Hadija Njeri Kamau vs Abdalla Tairara Godoro & Herodho Sheikh Bin Sheikh** and I note that indeed the parties in both matters are the same. The subject matter in this case is a parcel of land known as **Dundori/Lanet Block 5/384 (New Gakoe)** while the subject matter in **Nakuru ELC No. 186 of 2014** is **Dundori/Lanet Block 5/383 (New Gakoe)**. The two properties appear to be adjacent to each other. Save for minor details, the plaints in both matters are virtually a replica of each other and the circumstances in which the cause of action allegedly arose appear to be the same. I however found no evidence that **Nakuru ELC No. 186 of 2014** is scheduled for pre-trial conference on 15th October 2019. I will however give appropriate directions upon delivery of this ruling.

6. In view of the foregoing, I am satisfied that a case for consolidation has been made. I therefore make the following orders:

- a) This suit is hereby consolidated with **Nakuru ELC No. 186 of 2014 Hadija Njeri Kamau vs Abdalla Tairara Godoro & Herodho Sheikh Bin Sheikh**.
- b) Costs shall be in the cause.

Dated, signed and delivered in open court at Nakuru this 9th day of October 2019.

D. O. OHUNGO

JUDGE

In the presence of:

No appearance for the plaintiff/applicant

No appearance for the defendants/respondents

Court Assistants: Beatrice & Lotkomoi