



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA**

**MISC. JUDICIAL REVIEW APPLICATION NO. 2 OF 2019**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR ORDERS OF PROHIBITIOIN AND CERTIORARI**

**IN THE MATTER OF RICE HOLDING NO. 155 TEBERE SECTION UNIT 7**

**AND**

**IN THE MATTER OF CIVIL PROCEDURE ACT**

**AND**

**IN THE MATTER OF THE ESTATE OF JOSEPH KAMAU KARIUKI (DECEASED)**

**IN THE MATTER OF REPUBLIC OF KENYA**

**VERSUS**

SARAH NJAMBI MWANIKI.....1<sup>ST</sup> RESPONDENT

JOHN GATUNE KIMANI.....2<sup>ND</sup> RESPONDENT

SIMON KORI MURAGE.....3<sup>RD</sup> RESPONDENT

MURIITHI MBUNYA.....4<sup>TH</sup> RESPONDENT

RAHAB WANJIRU WACHIRA.....5<sup>TH</sup> RESPONDENT

SENIOR SCHEME MANAGER, MWEA IRRIGATION

SETTLEMENT.....6<sup>TH</sup> RESPONDENT

**AND**

DANIEL KARIUKI KAMAU.....EX-PARTE APPLICANT

**RULING**

**BACKGROUND**

This is an Ex-parte application brought by the Ex-parte Applicant under the *Civil Procedure Rules 2010*. Though the relevant order has not been cited, the same presumably is brought under *Order 53 Rule 2 C.P.R.* The application is supported by grounds apparent on the face of the application. The application is further supported by a statement of facts, an affidavit, verifying the correctness of the facts relied upon.

The 4<sup>th</sup> Respondent filed a replying affidavit opposing the same.

I have considered the Ex-parte Notice of Motion and the supporting documents. I have also considered the replying affidavit sworn by the 4<sup>th</sup> Respondent. Ordinarily, an application for leave under *Order 53 Rule 2* is Ex-parte in nature. I find the application merited and the same

is allowed.

Consequently, the Ex-parte Applicant is granted leave to file a substantive motion within 21 days from today.

***READ, DELIVERED and SIGNED in open Court at Kerugoya this 4<sup>th</sup> day of October, 2019.***

**E.C. CHERONO**

**ELC JUDGE**

**4<sup>TH</sup> OCTOBER, 2019**

*In the presence of:*

- 1. Applicant – absent*
- 2. Respondents – absent*
- 3. Wachira – Court clerk – present*