



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 20 OF 2019

ZIPPORAH KARIGU MWAMBI 1ST PLAINTIFF
 JOHN MWATHI M’MUGAMBI.....2ND PLAINTIFF
 JEREMIAH MURAUKO MUGAMBI.....3RD PLAINTIFF
 BEATRICE GACUNKU.....4TH PLAINTIFF
 DAVID MUTUGI KARIGU.....5TH PLAINTIFF
 JOSPHAT NJERI KIAYA.....6TH PLAINTIFF

VERSUS

SABERA GAKUNDI MWITHI..... 1ST DEFENDANT
 BEATRICE KATHAMBI.....2ND DEFENDANT
 CHARITY KAINDI.....3RD DEFENDANT
 VIRGINIA MUTHONI.....4TH DEFENDANT
 JOHN KIMATHI.....5TH DEFENDANT
 ALICE KARIMI.....6TH DEFENDANT
 JAMES MUTUGI.....7TH DEFENDANT
 GERALD MUGAMBI.....8TH DEFENDANT

RULING

1. There is a pending application pending in this matter.
2. The application states as follows:

NOTICE OF MOTION

(Under Order 8 rule 3 and Sections 3 & 3A Cap 21 Laws of Kenya)

LET ALL the parties concerned attend the Judge in chambers onday of2019 at 8.30am or soon thereafter in the forenoon on the hearing of an application by counsel for the applicant for orders that:-

- a) The Hon. Court be pleased to grant the applicant leave to amend her plaint as per the annexed copy.

b) The amended copy of the plaint be deemed as duly filed and duly served.

c) Costs of this application be in the cause.

The application is based on the following grounds:-

b) Costs of this application be in the cause.

The application is based on the following grounds:-

i) The name of the 1st plaintiff is Zipporah Karigu Mugambi alias Karigu M'Mugambi Ngiti and not Zipporah Karigu Mwambi.

ii) The first name of the 1st defendant is spelt as Zavera and not Sabera.

iii) That land parcel No. South Tharaka/Tunyai "A"/390 has been subdivided into seven new parcels including land parcel No. South Tharaka/Tunyai "A"/4586, 4587, 4588, 4589, 4590, 4591, 4592.

iv) That the information concerning the new parcel numbers was not known to the applicants at the time they filed the suit on 30th September, 2019 because they were relying on the Green card issued to them on 27th August, 2019 whereas the new titles were registered on 29th August, 2019.

v) That at the time the suit was filed the land was registered in the name of the 1st and 7th Respondents/Defendants to hold in trust for the 2nd, 3rd, 4th, 5th and 7th Respondents/Defendants.

vi) That after the subdivisions made on 29th August, 2019 three portions have been registered in the names of the 10th, 11th and 12th Defendants.

vii) That information reaching the applicants indicates that the 5th defendant is the same person (sic) being the names of James Mwenda Mwithi.

viii) That it is in the interest of justice that the seven new land parcels be consolidated back to the old land parcel No. South Tharaka/Tunyai "A"/390 so that the rights and claims of the applicants can be determined by this Hon. Court.

ix) That although new parcel numbers have been carved out (sic) land parcel No. South Tharaka/Tunyai "A"/390 there has been no subdivision done on the ground and it is hard for the applicants to know where their respective land parcels lie on the ground and we do not (sic) which of the Respondents is holding the land titles to our particular areas we are occupying.

x) The defendants will not suffer any prejudice.

The application is supported by the affidavit of Zipporah Karigu Mugambi alias Karigu M'Ugambi Ngiti and on further grounds to be adduced during the hearing hereof.

Dated at Meru this 1st day of October, 2019

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NJIRU KITHAKA & CO.

ADVOCATES FOR THE APPLICANTS

3. On **25th November, 2019**, advocates Kaai Mugambi and Nyambura Kithaka told the court that they want to explore a settlement. They told the court that they would engage in the necessary negotiations, and if they succeed, bring a consent to court on **9th December, 2019**. This request was allowed.

4. Parties are directed to come for directions on **9th December, 2019**.

5. Orders accordingly.

Delivered in open Court at Chuka this 25th day of November, 2019 in the presence of:

CA: Ndegwa

Kiai present for the Respondent

M/S Kithaka present for the Applicant

P. M. NJOROGE

JUDGE