



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAIROBI**

**ELC NO. 288 OF 2013**

**CHARLES MUNENE GATIMU.....1<sup>ST</sup> PLAINTIFF**

**KAREGI CATHERINE KAMANJA.....2<sup>ND</sup> PLAINTIFF**

**=VERSUS=**

**ERNEST OMWNGA (SUED ON HIS OWN BEHALF AND AS THE  
CHAIRMAN OF AMANI SELF HELP GROUP)....1<sup>ST</sup> DEFENDANT**

**PETER KINYUA.....2<sup>ND</sup> DEFENDANT**

**ABEL OYARO.....3<sup>RD</sup> DEFENDANT**

**PROTUS MANDELA.....4<sup>TH</sup> DEFENDANT**

**JOHN NGIGE.....5<sup>TH</sup> DEFENDANT**

**CHARLES AKUNGA.....6<sup>TH</sup> DEFENDANT**

**SAMUEL MUTURI.....7<sup>TH</sup> DEFENDANT**

**EVANS OBIERO.....8<sup>TH</sup> DEFENDANT**

**FRANCIS NDIRANGU.....9<sup>TH</sup> DEFENDANT**

**PETER KIOKO.....10<sup>TH</sup> DEFENDANT**

**STEPHEN KIBUNJA.....11<sup>TH</sup> DEFENDANT**

**MARY WAMBUI.....12<sup>TH</sup> DEFENDANT**

**LUCY NJERI.....13<sup>TH</sup> DEFENDANT**

**RULING**

1. This Is the notice of motion dated 10<sup>th</sup> July 2019 brought under article 47, 50, 159(2) and 160(1) of the Constitution, 2010 Sections 1 and 3 of the Civil Procedure Act, Cap 21 Laws of Kenya, Order 51 Rule 1 of the Civil Procedure Rules, 2010 and Sections 3, 12 of the Fair Administrative Action Act 2015 and Section 3 of the Judicature Act, 2018 and all the other enabling provisions of the law).

2. It seeks:-

**1. That the honourable trial Judge in the above matter be obligated to disqualify and/or recuse herself from further hearing**

**the above matter.**

**2. That any other order which the honourable court may deem fit and just to grant in the circumstances.**

3. The grounds are on the face of the application and are set out in paragraphs 1 to 6.

4. The application is supported by the affidavit of Ernest Omwenga, a member of the 1<sup>st</sup> defendant.

5. The application is opposed. There is a replying affidavit sworn by Charles Munene Gatimu the 1<sup>st</sup> plaintiff herein sworn on the 26<sup>th</sup> April 2019.

6. I have considered the notice of motion and the affidavit in support. I have also considered the replying affidavit and the oral submissions made by counsel. I wish to state that the court record is very clear. The defendants have been handled fairly in these proceedings. The defendants have not demonstrated any bias of this court towards them. The application is calculated to delay the expeditions disposal of the suit. There are no reasons given to warrant this court to recuse itself.

7. Notwithstanding the fact that there is no proper basis for this court to recuse itself at this stage, I will allow the matter to proceed before another judge. Parties do appear before Hon. J Okong'o (PJ) on 15<sup>th</sup> January 2020 for further directions.

It is so ordered.

**Dated, signed and delivered in Nairobi on this 5<sup>TH</sup> day of DECEMBER 2019.**

.....

**L. KOMINGOI**

**JUDGE**

**In the presence of:-**

Miss Sang for Momanyi for the 1<sup>st</sup> Plaintiff

Mr. Were for 2<sup>nd</sup> Plaintiff

Mr. Maosa for the Defendants

Kajuju – Court Assistant