



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MERU

MISC. APP NO 49 OF 1995

MBURUGU KIOGA.....APPLICANT

VERSUS

DISTRICT LANDS ADJUDICATION

OFFICER-MERU NORTH.....1ST RESPONDENT

DIRECTOR OF LAND ADJUDICATION, KENYA.....2ST RESPONDENT

STEPHEN MUBICHI PAUL.....1ST INTERESTED PARTY

RICHARD GICHUNGE.....2ND INTERESTED PARTY

ELIZABETH KALWEO.....3RD INTERESTED PARTY

GEOFFREY MUNGATHIA

MUKUNGA.....PROPOSED 4TH INTERESTED PARTY

JACKSON KALWEO.....5TH INTERESTED PARTY

RULING

1. This matter is due for Judgment, directions to that effect having been given on 06:12:17. Upon perusal of the file, I have deemed it fit to put on hold the writing of the Judgment since there is a need to have some clarifications regarding this matter.

2. First and fore most, a question arises as to whether the Court, while writing the Judgment should make reference to the proceedings before 1999, whereby oral evidence was taken and there was even a scene visit? I pose this question on account of the following;

a) The proceedings from March 2001 to November 2011 are missing yet the 4th Interested Party has alleged that there was an order of the Court given on 16:12:04 where the case was to start *de novo*.

b) The Interested Parties came into the picture after the oral evidence had been taken and scene visit was conducted.

c) There are orders /directions taken on 25.09.13 where it was agreed that this Judicial Review Motion be canvassed by way of Written Submission. The Counsels therefore ought to clarify whether the oral evidence and scene visit proceedings are to be taken into account or not.

3. The Parties are notified that the hand written record of the Court runs from 18.11.11. to date. The file also contains the typed (uncertified) proceedings running from 30.08.1995 to 16.03.2001. There are no records at all for the period 17.03.2001 to 17.11.11. It is necessary for the counsels to indicate if any of them have such proceedings and orders appertaining to this period. If the file was reconstructed, what are the documents that were availed to the Court?

4. Whether all the application in the file were heard and determined especially that one of 1999.

5. When did the 2nd Interested Party die?

6. When and how were the Interested Party's brought on board.

7. It is after these clarifications that the Court will give further directions on the writing of the Judgment.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 23rd JANUARY, 2018 IN THE PRESENCE OF:-

Court Assistant: Janet/Galgalo

B. Kimathi H/B for Kiome for Exparte Applicant

B. Kimathi for Respondent present

B.G Kariuki for 1st Interested Party

Rimita for 3rd and 5th Interested Party

HON. L. N. MBUGUA

ELC JUDGE