



**REPUBLIC OF KENYA**

**ENVIRONMENT AND LAND COURT**

**AT MIGORI**

**MISC CIVIL APPLICATION NO. 4 OF 2017**

**ELVIN LEWARE MACAGER.....APPLICANT**

**VERSUS**

**LAND REGISTRAR, MIGORI.....1<sup>ST</sup> RESPONDENT**

**MAURICE OTEMA KADII.....2<sup>ND</sup> RESPONDENT**

**AGRICULTURAL FINANCE CORPORATION....3<sup>RD</sup> RESPONDENT**

**RULING**

1. I have before me a Notice of Motion dated 28/2/2017 by the applicant represented by learned counsel, Mr. Nyauke. The applicant is seeking against the respondents the following orders :-

a. The suit filed by the applicant against the respondents being Migori Civil Case No. 466 of 2014; **Elvine Leware Macager Vs. the Land Registrar, Migori and 2 others** in the Senior Principal Magistrate's court be transferred therefrom to the Environment and Land court, Migori for hearing and disposal.

b. The order of injunction issued by Hon. Nyaga on the 10<sup>th</sup> April, 2015 in Migori Case No. 466 of 2014: **Elvine Leware Macager Vs. the Land Registrar, Migori and 2 others** and duly registered against the suit property **Suna East/Wasweta 1/921** on the 7<sup>th</sup> April, 2015 be maintained upon transfer of the case.

c. Leave be granted to the applicant to amend his plaint and the intended amended plaint annexed hereto be deemed as duly filed and served on the respondents in compliance with the rules of this Honourable court.

d. The costs of this application be provided for.

2. I have noted all the grounds on the face of the Notice of motion, among them, that the declaratory orders sought by the applicant in the suit can only be issued by this court. Supporting affidavit sworn on 27/2/2017 by the applicant and annexed documents, also anchor the Notice of motion,

3. Mr. Maboga for the 4<sup>th</sup> respondent has no objection to the Notice of Motion.

4. The claim appears to be on the rectification of the suit land register, among others. It is a claim

exclusively within the jurisdiction of this court as envisaged under **Sections 2 and 80 of the Land Registration Act, 2012**; See Wambugu –vs- Njuguna (1983) KLR 172

5. I find the notice of motion unopposed and merited.

6. I allow it accordingly.

7. Pursuant to order 3 sought in the Notice of Motion, the applicant's intended amended plaint dated 24/2/2018, be deemed duly filed and be served on the respondents forthwith.

8. The respondents to amend, file and serve amended defence within the next 30 days from the date hereof.

9. The 1<sup>st</sup> and 2<sup>nd</sup> respondents be served accordingly.

10. Mention on 26/4/2018 for directions.

**DELIVERED, SIGNED and DATED** in open court at **MIGORI** this **22<sup>nd</sup>** day of **February 2018**.

**G. M. A. ONGONDO**

**JUDGE**

**In the presence of:**

Mr. Nyauke counsel for the Applicant present

Mr. Maboga counsel for the 3<sup>rd</sup> respondent

Mr. Tom -Court assistant

**G. M. A. ONGONDO**

**JUDGE**