



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CIVIL APPEAL CASE NO 03 OF 2017

FORMERLY MERU ELC [CA]CASE NO. 54 OF 2011

M'BITA NTIRO.....1ST APPELLANT

VERSUS

MBAE MWIRICHIA.....1ST RESPONDENT

COUNTY COUNCIL OF MERU SOUTH.....2ND RESPONDENT

RULING

1. This application is dated **7th December, 2016** and seeks orders:-

1. That the 2nd respondent County Council of Meru South be substituted with the County government of THARAKA NITHI as the 2nd respondent in this appeal.
2. That the court be pleased to grant leave to the appellant to amend the memorandum of appeal in this appeal to reflect and accommodate prayer No. 1 herein if so granted.
3. That the draft amended memorandum of appeal filed attached herewith be adopted as the amended memorandum of appeal and the same be deemed as filed and served upon the respondents.
4. Cost of this application be provided for.

2. The application has the following grounds:

- a) That the 2nd respondent County Council of Meru South has ceased to exist by operation of law.
- b) That the County Government of Tharaka Nithi assumed all the assets, liabilities and functions of the 2nd respondent.
- c) That the presence of County Government of Tharaka Nithi in these proceedings will enable the court to effectually and completely adjudicate the issues canvassed between the parties in this appeal.
- d) That there is need for the court to order the substitution of County Council Of Meru South with the County Government of Tharaka Nithi to reflect the legal position of this appeal.

e) There is need for the court to grant the appellant leave to amend the memorandum of the appeal to reflect the correct passion (sic) of this appeal.

f) The draft amended memorandum of appeal herewith annexed explains the kind of substitution and amendment envisaged in this application.

g) That no party stand to suffer any prejudice if the orders sought are granted by the court otherwise the orders will go far in sorting out this appeal.

3. The application seeks to facilitate expeditious disposal of this suit by substituting the defunct county council with the present county government.

4. In the circumstances, the application is allowed in terms of prayers 1, 2 and 3.

5. Costs shall be in the cause.

6. It is so ordered.

Delivered in open court at Chuka this **5th day of February, 2018** in the presence of:

Muthamia for the 2nd Respondent

Mugo for the appellant

P. M. NJOROGE,

JUDGE.