

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC CASE NO. 52 OF 1998

M'ITIMITU M'MWITHIA.....PLAINTIFF

VERSUS

DIOCESS OF MERU REGISTERED

TRUSTEE ROMANO KOBIA.....DEFENDANTS

RULING

1. The appellant's counsel has raised an objection to the production of the 1st respondent's surveyor's report averring that the report is not conclusive.
2. Appellant's desires to have the said surveyor summoned to court for cross examination or to call a government surveyor. 1st respondent's counsel avers that the issues being raised now should have been raised when the appellant's report was rejected by the court.
3. I find that the issue of valuation has been running for quite some time now. However on 19.7.2017, Mutegi informed the court that **"We can call the valuer perhaps"**. Which means they are agreeable to calling the maker of the valuation report.
4. I therefore direct that the valuer who prepared the report of 1st respondent be called to shed light on the document.
5. As to calling a government surveyor, that was not an issue captured in the directions given under the consent on 13.6.2017.
6. On the issue of the release of the sum of Shs.180,638 to appellant , I find that indeed the appeal was heard and determined. However, the current proceedings arise out of the aforementioned appeal. As such, the order on release of the money shall be made at the time of the conclusion of this matter.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 7th MARCH, 2018 IN THE PRESENCE OF:-

Court Assistant: Janet/Galgalo

Ondieki holding brief for Kiome for plaintiff present

Mutegi for Kiautha Arithi for 1st defendant

HON. LUCY. N. MBUGUA

ELC JUDGE