

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

MILIMANI LAW COURTS

ELC APPEAL NO. 427 OF 2017

M M M M.....RESPONDENT

=VERSUS=

J C G M & 2 OTHERS.....DEEFENDANT

RULING

1. The plaintiff/applicant filed an originating summons against the first defendant/respondent in which she seeks among other orders a declaration that she has a beneficial interest in LR No.NBI/ Block/ [particulars withheld]. The applicant is the wife of the first respondent. The two married under Kisii customary law in 1978 but they later solemnized their marriage at the Registrar's office in Mombasa on 19th October 1992.

2. Before the originating summons could be heard, the applicant sought time to amend the originating summons. The applicant was granted time to file an application for leave to amend but instead of doing that, she proceeded to amend the originating summons without the court determining whether such amendments could be allowed. This notwithstanding, I have noticed that the applicant has brought in the issue of the first respondent having another wife of Congolese origin whom she claims wants to be registered as co-owner of LR No. NBI/Block/ [particulars withheld] which is in the name of the first respondent.

3. The dispute herein is purely a matrimonial dispute where the applicant wants declaratory orders as to her interest in the property currently registered in the first respondent's name. This court lacks jurisdiction to entertain such a claim. Let the applicant move the Family Division of the High Court for a declaration as to her rights under section 17 of the Matrimonial Property Act of 2013.

It is so ordered

Dated, Signed and delivered at Nairobi on this 31st day of May 2018.

E.O.OBAGA

JUDGE

In the presence of;-

Applicant in person

Court Assistant: Hilda

E.O.OBAGA

JUDGE