



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA ELC CASE NO. 18 OF 2017**

**FORMERLY MERU ELC 66 OF 2016**

**CECILIO MURANGO MWENDA & 2 OTHERS.....PLAINTIFFS**

**VERSUS**

**ISAAC KIMATHI IKUNGA.....DEFENDANT**

**RULING**

1. This application is dated **22<sup>nd</sup> May, 2018** and seeks the following orders:

- (i) That this honourable court be pleased to certify this application as urgent and the same be heard ex-parte in the first instance.
- (ii) That this honourable court be pleased to join David Mwangangi Gaichu, Agnes Mukoiti Muthambi, Joshua Mwiranga Njagi and Njeru Patrick Nyagah as the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> plaintiffs in this suit.
- (iii) That the applicants be granted leave to file statements, pleadings and documents to enable them participate in this suit.
- (iv) That this honourable court be pleased to make such further orders as may be necessary to meet the ends of justice in this suit.
- (v) That the costs be in the cause.

2. The application has the following grounds:

- a) This suit is pending for hearing and determination and is fixed for hearing on **28<sup>th</sup> May, 2018**.
- b) That the supplicants are owners of the plots which will be affected by the proceedings herein.
- c) That the applicants are desirous to participate in this suit and are seeking to be allowed as co-plaintiffs in this suit.
- d) That no prejudice will be occasioned to the present parties in this suit.
- e) That unless the orders are granted herein the applicants will suffer irreparable loss and damage.
- f) It is only fair and just for the application herein to be allowed for the ends of justice.

3. The application is supported by the affidavit of Njeru Patrick Nyagah, on behalf of all the three applicants, sworn on **22<sup>nd</sup> May, 2018**. The affidavit states:

**I, NJERU PATRICK NYAGAH OF P. O. BOX 1163-60200, MERU** in the Republic of Kenya make oath and hereby state as follows:

1. That I am the 4<sup>th</sup> applicant herein hence I am competent to make and swear this affidavit.
2. That I have been allowed by the other applicants herein to swear this affidavit on their behalf and I also do so on my behalf. Annexed hereto is the written authority to sign affidavits and documents marked "NPN1".

3. That we have been informed by the 2<sup>nd</sup> plaintiff herein that this suit is pending for hearing and determination and the same is fixed for hearing on **28<sup>th</sup> May, 2018**.
4. That we are the owners of plot numbers S. Tharaka/Marimatni/2271, 2275, 2277 and 2269 and have been informed about the existence of this suit by the 2<sup>nd</sup> plaintiff herein.
5. That our plots are affected by the dispute herein. Annexed hereto are the certificates of official search and Title Deeds marked "NPN 2a", "NPN 2b", "NPN 2c", AND "NPN 2d".
6. That we are desirous to be joined this suit as plaintiffs hence our application to be allowed to file statements and documents to enable us participate in this (sic) proceedings.
7. That the suit has not commenced for hearing and no prejudice will be occasioned upon the parties herein if our application is allowed.
8. That we are desirous to be heard in this suit and pray to be given a chance to be heard in terms of our application herein.
9. That I make this affidavit in support of our application herein.
10. That what I have deponed to hereinabove is true to the best of my knowledge, information and belief.

4. During interpartes hearing, advocate Kiogora Arithi and advocate Manasses Kariuki, told the court that they were amenable to the court allowing the application with costs to be in the cause.

5. In the circumstances, the application is allowed.

6. The applicants' advocate, as intimated, is allowed to amend and file apposite documents within 14 days of today.

7. Costs shall be in the cause.

8. Hearing of the main suit will take place on **2<sup>nd</sup> July, 2018**.

9. It is so ordered.

**Delivered in open Court at Chuka this 28<sup>th</sup> day of May, 2018**

in the presence of:

CA: Ndegwa

Kiogora Arithi for the plaintiffs

Manasses Kariuki for the defendant

**P.M. NJORGE**

**JUDGE**