



**REPUBLIC OF KENYA**

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

**MISCELLANEOUS APPLICATION NO. 01/2018**

**JUSTUS MUTHEE MUCHEGE.....APPLICANT**

**VERSUS**

**JEREMIAH MUTHURI KAGERE.....RESPONDENT**

**RULING**

1. This application is predicated upon Section 13 (5) of the Environment and Land Court Act and Section 18 (1) (b) (ii) of the Civil Procedure Act. It is dated **15<sup>th</sup> May, 2018** and seeks orders:

1. That the application be certified urgent and the same be heard expeditiously.

2. That an order be issued, transferring Chuka CM's Civil Suit No. 36 of 2014 (JUSTUS MUTHEE MUCHEGE –VS- JEREMIAH MUTHURI KAGERE) TO Marimanti Law Courts AND consolidate the said file with Marimanti PM's Civil Suit No. 13 of 2016 (JEREMIAH MUTHURI KAGERE –VS- JUSTUS MUTHEE MUCHEGE).

3. That costs of the application be in the cause.

2. The application has the following grounds:

a) That Chuka CM's Civil Suit No. 36 of 2014 and Marimanti PM's Civil Suit 13 of 2016, concerns an ownership dispute over parcel Nos. 1702 & 1731, Turima Adjudication Section, which is within Tharaka South/North Sub Counties and well within the jurisdiction of the Marimanti Law Courts.

b) That Marimanti PM's Civil Suit will be heard on **17.5.2018** hence the urgency of the matter.

c) There is need to have one court, hear and determine the dispute, concerning the same parties.

d) No prejudice shall be occasioned to both parties since they are residents near Marimanti Law Courts.

**DATED AT MERU THIS 15<sup>TH</sup> DAY OF MAY, 2018**

**FOR: MWIRIGI KABURU & CO.**

**ADVOCATES FOR THE APPLICANT**

3. The application is supported by the affidavit of Justus Muthee Muchege sworn on **15<sup>th</sup> May, 2018**. The affidavit states as follows:

**I, JUSTUS MUTHEE MUCHEGE of P. O. BOX 1, Marimanti,** do hereby make oath and state as follows:

1. That I am the applicant herein, very well versed with all the issues herein and therefore competent to make and swear this affidavit.

2. That I am the plaintiff in Chuka CMCC No. 36 of 2014 (JUSTUS MUTHEE MUCHEGE –VS- JEREMIAH MUTHURI KAGERE). Annexed and marked JMMI is a copy of the plaint.

3. That while my suit was pending for hearing, the respondent sued me at Marimanti Law Courts in Marimanti PMCC No. 13 of

2016, claiming compensation for alleged damaged crops on his parcel No. 1731 Turima Land Adjudication Section. (Annexed and marked JMM2 is a copy of the plaint).

4. That both lands, fall within the Tharaka/South/North Sub Counties, well within the jurisdiction of Marimanti Law Courts. (Annexed and marked JMM3 is a consent issued by the DLASO).

5. That both suits involve the ownership of parcel Nos. 1702 & 1731 Turima Land Adjudication Section and it is important for one court to deal with both suits to settle the issue of ownership.

6. That Marimanti PMCC No. 13 of 2016, is set to be heard on 17.5.2018, hence the urgency of this matter.

7. That I verily believe that the court, can out of its own motion, transfer Chuka CMCC No. 36 of 2014 to Marimanti and consolidate it with Marimanti PMCC No. 13 of 2016.

8. That I urge the court to allow my application.

9. That all what is deposed to here above is true to the best of my knowledge, information and belief.

4. Advocate Mwirigi Kaburu, during the ex-parte hearing, urged the court to order consolidation of the 2 apposite suits as they were both spawned by the same 2 parcels of land.

5. In the interest of justice, I find it proper to give a summary ruling which allows the application.

6. I find that the application seeks to advance the course of justice by having two suits which have a nexus to the same parcels of land consolidated and heard and determined together.

7. The application is allowed.

8. An order is hereby issued, transferring Chuka CM's Civil Suit No. 36 of 2014 (Justus Muthee Mucgege versus Jeremiah Muthuri Kagere) TO Marimanti Law Courts AND to be consolidated with Marimanti PM's Civil Suit No. 13 of 2016 (JEREMIAH MUTHURI KAGERE versus JUSTUS MUTHEE MUCHEGE).

9. The applicant is ordered to properly serve the orders issued by the court today upon the respondent within the next 5 days.

10. Costs shall be in the cause.

11. It is so ordered.

**Delivered in open court at Chuka this 16<sup>th</sup> day of May, 2018**

in the presence of:

CA: Ndegwa

Mwirigi Kaburu for the applicant

**P.M. NJOROGI**

**JUDGE**