



**REPUBLIC OF KENYA**

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

**E & L CASE NO. 147 OF 2014 (OS)**

**LYDIA KARIMI.....PLAINTIFF**

**VERSUS**

**CHRISTINE MUKIRI..... 1<sup>ST</sup> DEFENDANT**

**JOANINA KAIMURI MBWIRIA.....2<sup>ND</sup> INTENDED DEFENDANT**

**JULIA MUGURE MBWIRIA.....3<sup>RD</sup> INTENDED DEFENDANT**

**R U L I N G**

The Defendant is ready to proceed with the suit today. The Plaintiff is not. The matter was given a date by this court which also served the notice. The Defendant has filed her list of witnesses in court as well as a list of documents and has statement.

It is not disputed that directions under **Order 37 Rule 18** have not been issued in this matter. It is also not disputed that at least two applications are pending for hearing and determination, one being for joinder of two more parties to the suit and that the latter application was opposed by way of a Replying Affidavit.

The plaintiff was served on 17/4/2018 as was the Defendant.

This court has to now balance between taking advantage of the moment in utilizing the time available today to hear this matter and the advantage of deferring the same to another date to enable the applications be dealt with first before the substantive hearing.

In my view when an application is pending for joinder of parties there is likelihood that the party so applying may have come to a realization that his suit is not tenable as against the existing parties alone, hence the application.

Ordinarily this court has powers to order joinders of parties even without the application of any party in accordance with **Order 1 Rule 10** of the **Civil Procedure Rules**.

It may have escaped notice of this court that there was an application on record for joinder of more parties. However the plaintiff also has no good reason advanced today as to why he never prosecuted that application. The process of justice is a long and arduous one and along that road one will find all kind of litigants, the eager, the lackadaisical, and the reckless and so on.

However it is in the public interest that justice be based on substance, and that litigation do have an end, and the proposed joinder may ensure that these two overarching objectives of our **Civil Procedure Rules** are attained.

Further it is only fair that all the proposed parties be considered while the application is being argued so that appropriate orders may be given to pave the way for proper conduct of this litigation.

My conclusion therefore is that though the Defendant is ready to proceed and has a host of witnesses in court, as the court can see, this suit is not ripe for hearing.

I therefore adjourn the hearing to another date to be agreed between the parties for direction before another substantive hearing date is taken.

**Dated, signed and delivered at Meru on this 20<sup>th</sup> day of June 2018**

**MWANGI NJOROGE,**

**JUDGE**

**In the presence of**

**Mr. Mbaabu for the defendants and the proposed defendants**

**Mr. Mwirigi for the plaintiff.**

**C/A : Janet.**