



**REPUBLIC OF KENYA**

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

**CHUKA ELC CASE NO 108 OF 2017**

**FORMRLY MERU ELC CASE NO. 12 OF 2009**

**JOHNSON NKONGE O. M'RUCHA.....PLAINTIFF**

**VERSUS**

**JOHN PHARES NJERU M'ITHAARA.....DEFENDANT/RESPONDENT**

**ABDUL RASHID MBAE MAGAMBO.....INTERESTED PARTY/APPLICANT**

**RULING**

1. By consent, the parties in this suit had agreed that it be heard on **24<sup>th</sup> September, 2018**.
2. **At 9.03 am** Miss Munga, the plaintiffs' advocate, and the defendant's advocate, Mr. K'Opere informed the court that they were ready to proceed with the hearing. The court directed that the **hearing commences at 9.30 am**. Because the 4 applications in the Cause List were not completed as earlier scheduled, **hearing commenced at 11.30am**. Mr. K'Opere gave an opening address which the court recorded.
3. Miss Munga told the court that the 2<sup>nd</sup> plaintiff who also styles himself as an interested party was not present. She did not explain why he was not in court. Nevertheless, she intimated that she was ready to proceed with the hearing of the suit with the presence of the 1<sup>st</sup> plaintiff only.
4. After the 2<sup>nd</sup> plaintiff's name was called on outside the court as per the requirement of order 12, rule 1, of the Civil Procedure Rules, it was established that he had not attended court. The court laments this situation especially in view of the fact that this suit was **filed in years 2009 and 2010**.
5. The court established that the defendant had not filed a counterclaim against the plaintiffs.
6. In the circumstances, the 2<sup>nd</sup> plaintiff's case, to wit Abdul Rashid Mbae Magambo's case, **is dismissed** and costs are awarded to the defendant.
7. It is so ordered.

**Delivered in open Court at Chuka this 24<sup>th</sup> day of September, 2018 in the presence of:**

CA: Ndegwa

Miss Munga for the plaintiffs

Mr. K'Opere for the defendant

**P.M. NJOROGE**

**JUDGE**