



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAIROBI**

**ELC CASE NO. 986 OF 1997**

**FREDRICK NJOROGE.....1<sup>ST</sup> PLAINTIFF/APPLICANT**

**PETER GACHERU.....2<sup>ND</sup> PLAINTIFF/APPLICANT**

**STEPHEN NGANGA NJOROGE.....3<sup>RD</sup> PLAINTIFF/APPLICANT**

**VERSUS**

**FRANCIS MAINGI NJOROGE.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**MARY WAIRIMU KARUIGI.....2<sup>ND</sup> DEFENDANT/RESPONDENT**

**DIRECTIONS**

1. I have gone through the court record on 31<sup>st</sup> July 2017 the Notice of Motion dated 28<sup>th</sup> July 2017 was certified as urgent and fixed for hearing on 27<sup>th</sup> September 2017. On 27<sup>th</sup> September 2017 the matter came up before Hon. Lady Justice Gitumbi but neither party/counsel appeared. The matter was then fixed for mention on 9<sup>th</sup> April 2018.

2. On 16<sup>th</sup> July 2018, the matter came up for mention. Mr. Ochieng, held brief for Mrs Wangombe for the defendant and Mr. Mabach held brief for Mr. Kamwenda for the plaintiff. Mr. Ochieng informed the court that both parties had filed written submissions in respect of the notice of motion dated 28<sup>th</sup> July 2017. The court then set a date for ruling.

3. I have perused the said application in which the plaintiffs/applicants seeks to prevent the interment of the remains of one James Karwege (deceased) on Parcel No. Kiambaa/Waguthu/1609 on 1<sup>st</sup> August 2017 or on any other day.

4. It appears to me that the application has been overtaken by events given that the alleged event was to take place a year ago. In the circumstances it would not be in the interest of justice to write the ruling in respect of the notice of motion dated 28<sup>th</sup> July 2017. Instead the parties should take steps to ensure the main suit is set down for hearing at the earliest opportunity.

It is so ordered.

**Dated, signed and delivered in Nairobi on this 29<sup>TH</sup> day of NOVEMBER 2018**

.....

**L. KOMINGOI**

**JUDGE**

**In the presence of:-**

.....Advocate for Plaintiffs

.....Advocate for Defendants

.....Court Assistant