



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 04 OF 2018

FORMERLY MERU ELC CASE NO. 63 OF 2004

JOHN MUCHAI MUGAMBI

(In Place of Isaiya Mugambi M’Muketha)PLAINTIFF/APPLICANT

VERSUS

ATTORNEY GENERAL1ST DEFENDANT/RESPONDENT

CHIEF LAND REGISTRAR.....2ND DEFENDANT/RESPONDENT

THE COUNTY GOVERNMENT OF MERU.....3RD DEFENDANT/RESPONDENT

RULING

1. This application is dated **10th December, 2018** and seeks the following orders:

1. That this honourable court be pleased to certify this application as urgent.
2. That this honourable court be pleased to determine and pronounce as to which party should pay the costs of this suit.
3. That cost of this application be provided for.

2. It is buttressed upon the following ground:

1. That the judgment delivered on **3rd December, 2018** is silent as to which party is to pay cost of this suit.

3. The application is supported by the affidavit of John Muchai Mugambi which states:

I, JOHN MUCHAI MUGAMBI C/O Messes A.G. Riungu & Co. Advocates of P. O. Box 1503 -60200 Meru in the Republic of Kenya make oath and state as follows;-

1. That I am the plaintiff in this suit having substituted Isaya Mugambi (deceased).
2. That the judgment delivered by this court on **3rd December, 2018** has been read to me by my advocates on record and I understood the same.
3. That I am aware the former judgment of the superior court in this suit had awarded costs which were assessed at Kshs.3,710,151/=. (Attached herewith is a copy of the certificate of costs dated **19th October, 2016** annexed and marked as ‘JMM1’).
4. That I am advised by my advocates on record that said assessment was based on courts award then which was Kshs.63,100,000/=.
5. That the said award has now changed to Kshs.109,585,488.65/=.
6. That I have also been advised by my advocates on record and I believe it to be true that interest on costs has to be expressly pronounced by the court on awarding costs to the party.

7. That it is due to the above that I make this affidavit in support of my application herein.

8. That what is deponed herein is true to the best of my knowledge, information and belief.

4. When the application was heard, Mr. Nyakwara, holding brief for Mr. Riungu, the applicant's advocate, told the court that it had inadvertently failed to pronounce itself on the issue of who pays costs in this suit. I agree that the issue of costs was inadvertently left out in the judgment.

5. Normally costs follow the event. In this case, they will follow the event and will be borne by the 3rd defendant.

6. It is hereby clarified and ordered that paragraph 39 of this court's judgment dated 3rd December, 2018 should be deemed to have item (f) to read as follows: "Costs with interest from the date of this judgment are awarded to the plaintiff and are to be borne by the 3rd defendant".

7. The upshot of what I have said above is that costs of this suit shall be borne by the 3rd defendant and interest on costs is payable from 3rd December, 2018 when this court's judgment was delivered.

9. It is so ordered.

Delivered in open Court at Chuka this 13th day of December, 2018 in the presence of:

CA: Ndegwa

Nyakwara h/b Ashford Riungu for the applicant

P. M. NJOROGI

JUDGE