



**REPUBLIC OF KENYA**

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

**EMBU ELC PETITION CASE NO. 01 OF 2014**

**IN THE MATTER OF ARTICLES 62 (20), 63(1), (2), (3) AND 67 OF THE CONSTITUTION OF KENYA**

**AND**

**THE LAND ADJUDICATION ACT, CAP 284, LAWS OF KENYA**

**AND**

**IN THE MATTER OF CONTRAVENTION AND / OR APPREHENDED CONTRAVENTION OF MBEERE COMMUNITY RIGHTS AND INTERESTS IN LAND IN ALL THAT TRUST LAND**

**KNOWN AS MWEA WITHIN THE AREAS KNOWN AS KARABA, WACHORO, RIAKANAU, GATEGI AND MAKIMA UNDER**

**ARTICLES 62 (20, 63(1), (2) AND 67 OF THE CONSTITUTION OF KENYA**

**BETWEEN**

**MBEERE ELDERS WELFARE ADVISORY GROUP & 4 OTHERS.....PETITIONERS**

**AND**

**THE ATTORNEY GENERAL & 7 OTHERS.....RESPONDENTS**

**AND FURTHER**

**JUSTIN NYAKI NGURE & 14 OTHERS.....235<sup>TH</sup> – 249 PROPOSED INTERESTED PARTY/APPLICANT**

**VERSUS**

**NAOMEY MUTHONI NYAGAH & 293 OTHERS.....9<sup>TH</sup> – 303 PROPOSED RESPONDENTS**

**RULING**

1. This application was listed in the Chuka ELC's Cause List on **10<sup>th</sup> December, 2018**. On its face it is stated that it has been brought to court under Order 51 Rule 1 and Order 40 Rule 2 of the Civil Procedures Rules 2010 and Sections 3, 3A and 63 of the Civil Procedure Act and all enabling provisions of the law.

2. The application seeks the following orders:

1. That this application be certified as urgent and service thereof be dispensed with in the first instance.
2. That this honourable court be pleased to stay all proceedings herein pending hearing and determination of this application inter partes.
3. That this honourable court be pleased to stay all proceedings herein pending hearing and determination of High Court Civil Case Number 6 of 2018 in the High Court of Kenya at Embu inter partes.

4. That this honourable court be pleased to grant orders restraining the firm of Njiru Kithaka & Co. Advocates whether by themselves, agents, servants or otherwise from coming on record and/or acting for the 1<sup>st</sup> petitioner herein pending the hearing and determination of High Court Civil Case Number 6 of 2018 in the High Court of Kenya at Embu inter partes.

5. That costs of this application be provided for.

3. The application has 10 general grounds and is supported by the affidavit of ESTON NYAGA NTHIGA, the 2<sup>nd</sup> applicant, who is the Chairman of the 1<sup>st</sup> Applicant.

4. The applicants are not in court. I issue the following orders:

a) Matter is **NOT** certified urgent **BUT** it is to be heard on priority basis.

b) The petitioners to serve the application upon the respondents.

c) **Application** to be head by or **directions** given by the **Hon. Justice Angima, ELC Judge, Embu, on 18<sup>th</sup> December, 2018**

**Delivered in open Court at Chuka on 10<sup>th</sup> December, 2018 in the presence of:**

CA: Ndegwa

Miss Kungu for the AG

Other parties absent

**P.M. NJORGE**

**JUDGE**