



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**  
**CHUKA LAND CASE NO 13 OF 2017**  
**FORMERLY MERU ELC CASE NO.04 OF 2016**

**MAKEMBO KAYA.....PLAINTIFF**

**VERSUS**

**SILAS NYAGA.....1<sup>ST</sup> DEFENDANT**  
**JOSEPH MUGAMBI KAMUYU.....2<sup>ND</sup> DEFENDANT**  
**ELIJAH MUTHENGI KAMUYU.....3<sup>RD</sup> DEFENDANT**  
**GRACE GITHINJI KAMUYU.....4<sup>TH</sup> DEFENDANT**  
**RUTH MWENDE.....5<sup>TH</sup> DEFENDANT**  
**JACOB MUTEITHA GAKIRORU.....6<sup>TH</sup> DEFENDANT**  
**JOHN KAMUNYU GAKIRORU.....7<sup>TH</sup> DEFENDANT**

**RULING**

1. This application is dated 12.7.2016 and seeks orders:
  1. That this honourable court be pleased to CERTIFY this application as URGENT and the same be heard ex parte in the first instance.
  2. That order of inhibition be issued to restrain all dealings in respect of L.R. NOS.3860-3867 Gatunga Adjudication Section.
  3. That the costs for and incidental to this application be costs in the main suit.
2. The application is supported by the affidavit of MAKEMBO KAYA and has the following grounds:
  - i. That the defendant is intending to dispose of the suit lands which will render this suit nugatory.
  - ii. That the defendants will not be prejudiced in any way if the orders sought are granted.
3. When the matter came up for directions on 7.3.2013, it transpired that even though the plaintiff had

obtained interim orders on 18.7.2016, he had not served the defendants with the application dated 12.7.2016. Mr Muriithi urged that the application be dismissed for non-service and non-prosecution.

4. Mr. Mutunga holding brief for Mr. Kariuki for the plaintiff agreed that application dated 12.7.2016 had not been served upon the defendants but urged the court to give the plaintiff time to serve the application upon the defendants.

5. I find that this application merits dismissal.

6. The application is dismissed with costs to be in the cause.

7. The plaintiff is ordered to comply with order 11 CPR within 7 days of today and the defendants are to do so within 7 days after receipt of the plaintiff's compliance documents.

8. Parties to come to court for pre-conferencing and for directions on 21.3.2017.

9. It is so ordered.

**Delivered in open court at Chuka this 7<sup>th</sup> day of March, 2017 in the presence of:**

CA: Ndegwa

Mutunga h/b B.G.Kariuki for the plaintiff

Muriithi for the defendants

**P. M. NJOROGE**

**JUDGE**