

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
ENVIRONMENT AND LAND COURT
ELC SUIT NO 62 OF 2012

FREDRICK BAARIU M'IMATHIU & 111 OTHERS.....PLAINTIFFS

VERSUS

COUNTY COUNCIL OF NYAMBENE.....DEFENDANT

R U L I N G

The matter is coming up today to confirm if parties have complied with Order 11. I find that way back on 25:11:14, the issue of compliance was dealt with whereby the Court had given each side 30 days to comply. More than two years down the line, the Court has been dealing with the issue of NON COMPLIANCE on the part of defendant. I find that all parties are called upon to comply with Courts directions as is clearly spelt out under **Section 1A** and **1B** of the Civil Procedure Rules. In particular, this Court makes reference to the provisions of **Section 1 A (3)** where it is stated that:-

“ a party to Civil proceedings or an Advocate for such a party is under a duty to assist the Court to further the overriding objective of the Act and to that effect to participate in the processes of the Court and to comply with the directions and other orders of the Court”.

The aforementioned provisions of the Act do assist the Court to carry out its mandate in line with the provisions of Article 159 2(b) of the Constitution “ **Justice shall not be denied**”. The Court also makes reference to the case; **Civil Application No. 6 of 2010 Between Hunker Trading Company Limited and ELF OIL Kenya Limited** Nairobi where the issue of compliance was raised.

In right of the foregoing, I find that defence has failed in complying with Courts orders particularly to order of 29:11:10. I therefore decline the grant to defence more time to comply. The Court will proceed to give directions on how the case will proceed.

RULING IS READ IN OPEN COURT THIS 1ST DAY OF MARCH, 2017 IN THE PRESENCE OF:-

CA: Dalphine

Miss Rimita for Plaintiffs

Munene for Defendant

L.N. MBUGUA

JUDGE