



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA
CHUKA ELC CASE NO 69 OF 2017
FORMERLY MERU ELC CASE NO.74 OF 2015

ELYJOY KAGENI.....PLAINTIFF

VERSUS

BANK OF AFRICA KENYA LIMITED.....1ST DEFENDANT

MUGA AUCTIONEERS AND GENERAL MERCHANTS.....2ND DEFENDANT

UNITED BROTHERS CAMPS LTD.....3RD DEFENDANT

HUMPHREY MBABU MBAKA.....4TH DEFENDANT

RULING

1. On **5th April, 2017** Miss Mbaikiata, the plaintiff's advocate agreed that the 1st and 2nd defendant's advocates had not been served with summons to enter appearance and with apposite documents. She told the court that her firm had given the documents to a process server who had not come back to them. She undertook that the apposite documents would be served within 7 days of **5th April, 2017**.
2. Mr Owiti the 1st and 2nd defendant's advocate undertook to enter appearance and to file a defence within 14 days after receipt of the apposite documents from the plaintiff's advocate.
3. By consent, the parties agreed to come to court for a pre-trial conference on **28th June, 2017**.
4. On **28th June, 2017**, the plaintiff had not served upon the 1st and 2nd defendant's advocate the apposite documents.
5. Mr. Owiti for the 1st and 2nd defendants requested the court to make a ruling regarding this matter as the plaintiff was delaying the hearing and disposal of the suit unnecessarily.
6. Mr.Owiti prayed for costs as he came all the way from Nairobi although the matter could not proceed because the plaintiff had disobeyed court orders.
7. The court rules as follows:

a) As a last chance, the plaintiff should serve the 1st and 2nd defendants with summons and other apposite documents including the plaint within 7 days of today, failing which the 1st and 2nd

defendants may move the court appropriately.

b) Upon receipt of the summons and other apposite documents including the plaint, the advocates for the 1st and 2nd defendants will enter appearance and file a defence within 14 days.

8. Costs for today (28.6.2017) awarded to the 1st and 2nd defendants and to be in the cause.

9. Pre-conference and directions, by consent, on **25th July, 2017**.

10. It is so ordered.

Delivered in open court at Chuka this **28th day of June, 2017** in the presence of:

CA: Ndegwa

Mark Muriithi h/b Rimita for the plaintiff

Owiti for the defendant

P. M. NJOROGE,

JUDGE.