



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA MISC. JUDICIAL REVIEW CASE NO 04 OF 2017

IN THE MATTER OF AN APPLICATION BY MBUGI KIRAKURA FOR ORDERS OF CERTIORARI AND PROHIBITION

AND

IN THE MATTER OF SECTION 8 & 9 OF THE LAW REFORM ACT CAP 26 LAWS OF KENYA

AND

IN THE MATTER OF LAND COMMITTEE CASE NO. 94/05, 92/05, 232/05, 22/05, 209/05, 228/05

AND

IN THE MATTER OF ARBITRATION BOARD CASES NUMBER 157/08, 158/08, 159/08, 161/08 166/08

AND

IN THE MATTER OF PARCELNO.216 – THARAKA ADJUDICATION AREA, GATUNGA ADJUDICATION SECTION

AND

REPUBLIC.....APPLICANT

VERSUS

THE CHAIRMAN OF THE ARBITRATION BOARD, THARAKA

ADJUDICATION AREA, GATUNGA ADJUDICATION SECTION.....1ST RESPONDENT

THE LAND ADJUDICATION OFFICER, THARAKA ADJUDICATION AREA,

GATUNGA ADJUDICATION SECTION.....2ND RESPONDENT

THARAKA COUNTY COUNCIL.....INTERESTED PARTY

EX-PARTE.....MBUGI KIRAKURA

RULING

1. This application is dated 15th March, 2017 and seeks orders;
 1. THAT this matter be certified urgent and be heard on priority basis.
 2. THAT this Honorable Court be pleased to set-aside the order dismissing the suit on 15.3.2017 on such terms as it may deem fit and proper in the interests of justice.
 3. THAT the costs be in the cause.
2. The application is supported by the affidavit of **MUIA MWANZIA**, the exparte applicant's advocate and has the following grounds:
 - a. THAT the suit should be heard on merits.
 - b. THAT it is fair, just, equitable and in the interests of justice that this application be preferred.
3. The application was canvassed on **21st June, 2017**.
4. I accept Mr Mwanzia's explanation that he was attending to another suit in the High Court at Chuka when this suit was dismissed.
5. In the circumstances the dismissal order issued on **15th March, 2017** is vacated with the effect that the suit is reinstated forth.
6. The oral application that the exparte applicant substitutes the County Council of Tharaka with the County Government of Tharaka Nithi is allowed.
7. The exparte applicant should file his submissions with regard to the main motion within **21 days** of today and the other parties should do so within **30 days** after receipt of the exparte applicant's submissions.
8. Directions on **19th September, 2017**
9. Costs of this application, to be in the cause, awarded to the interested party.
10. It is so ordered.

Delivered at Chuka this **21st day of June, 2017** in the presence of:

CA: Ndegwa

Mwanzia for the Exparte applicant

Miss Kungu for 1st and 2nd Respondents

Kiautha Arithi for the interested party

P. M. NJOROGE

JUDGE