



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MIGORI

ELC NO. 223 OF 2017

(Formerly KISII ELC CASE 415 OF 2015)

WILLIAM ODHIAMBO NYAMOLO.....PLAINTIFF/RESPONDENT

VERSUS

YUSTO OURU KISIA.....DEFENDANT/APPLICANT

RULING

1. In a Notice of Motion dated 17/2/2017 brought pursuant to Sections 3,3A and 63E, of the Civil Procedure Act Cap 21 Laws of Kenya and Article 159 Laws of Kenya 2010, the Constitu the Defendant has sought the following orders;-

- a. **THAT** the Honourable Court be pleased to grant orders to the Defendant/Applicant an order to have Kisii Elcc case No. 16 of 2016 consolidated with Kisii ELcc case 415 of 2015.
- b. **THAT** the Honourable court be pleased to make any other further orders as the court may deem fit to grant in the circumstances.
- c. **THE** costs of this application be in the cause.

2.The grounds of the Notice of Motion are on the face of it with documents in support of it, the ground are :-

- a. The defendant/applicants has filed **Kisii ELC case No. 61 of 2016** against the plaintiff herein and another.
- b. The parties in **Kisii ELC case no. 61 of 2016** and **Kisii ELC case no. 415 of 2015** are the same.
- c. That the subject matter in this suit is the same with the subject matter in Kisii Elcc 61 of 2016.
- d. That the defendant/applicant's claim against the plaintiff herein if over the same land parcel **Suna East Wasweta 1/19095**.
- e. That the issue raised herein and the issue raised by the plaintiff/respondent and the issue raised by defendant/applicant in Kisii ELC case No. 61 of 2016 can only be determined at once if the plaintiff's suit is consolidated together with the defendant/applicant suit.

f. It is for the interest of justice that the orders sought be granted.

3. Ms. Ochwal for the plaintiff has no objection to the application. There is no appearance on the part of the defendant. Order 3 Rules 4 , 5 and 6 Civil Procedure Rules,2010 fortify the Notice of Motion application which I find full of merits.

4. I allow the Notice of Motion dated 17/2/2017 in terms of orders (a) and (c) sought therein.

5. Mention on 2/10/2017 for directions

DELIVERED, SIGNED and DATED in open court at MIGORI this **20th** day of July 2017.

G.M.A. ONGONDO

JUDGE

In presence of :-

Ms. Ochwal for the plaintiff

Tom – Court Assistant

G.M.A. ONGONDO

JUDGE