



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MIGORI

ELC NO. 135 OF 2017

(Formerly KISII ELC CASE 66 OF 2014)

IN THE MATTER OF THE ENVIRONMENT AND LAND COURT

ACT NO. 19 OF 2011 TRANSITIONAL PROVISIONS

AND

IN THE MATTER OF PARAGRAPH 7 OF PRACTICE DIRECTIONS ON PROCEEDINGS

RELATING TO THE ENVIRONMENT AND THE USE AND OCCUPATION

OF AND TITLE TO LAND DATED 9TH NOVEMBER 2012

LAND CASE NO. 66 OF 2014

BETWEEN

DR. OKELLO JOHN ROBERT LIECH.....PLAINTIFF

AND

THE HON. ATTORNEY GENERAL.....1ST DEFENDANT

THE COUNTY GOVERNMENT OF HOMA BAY....2ND DEFENDANT

THE BOARD OF MANAGEMENT OF

RANGWENA PRIMARYSCHOOL.....3RD DEFENDANT

RULING

1. In a Notice of Motion dated 25/5/2015, filed pursuant to Order 1 Rule 10 (2) of the Civil Procedure Rules. The Plaintiff is seeking orders as follows:-

1. The Honourable court be pleased to allow the plaintiff to join the third defendant, the Board of Management of Ragwena Primary School, as a party to the above suit.
2. The costs of this application be costs in the cause.

2. The grounds are on the face of it and the plaintiff's affidavit of 25/5/2015 is in support of it. The grounds are as hereunder;-

- a. The third defendant has been constituted to operate the said school and is statutorily bound to be a party to this suit.
- b. The third defendant is a necessary part to enable the court to adjudicate fairly in the above case.
- c. The third defendant should be made a party ex debito justice.
- d. No prejudice will be occasion to the defendants or plaintiff by this application.

3. The plaintiff's counsel Ms. Nyarige instructed by G.S. Okoth is present for hearing of Notice of Motion. She has sought for the orders in the Notice of Motion. The application is brought pursuant to Order 1 Rule 10 (2) which reads;-

“ The court may at any state of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”

4. The defendant counsel was duly served as per hearing notice dated. 6/6/2017. There is no reason for non-attendance on his part.

5. I find the Notice of Motion merited. I accordingly allow the orders 1 and 2 sought therein

6. Mention on 4/10/2017 to confirm compliance with orders thereof and for directions.

7. The defendant be served accordingly.

DELIVERED, SIGNED and DATED in open court at MIGORI this **19th** day of July 2017.

G.M.A. ONGONDO

JUDGE

In presence of :-

Ms. Nyange for Plaintiff

Tom – Court /Assistant / Clerk