



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAKURU

CASE No. 226 OF 2013

ALICE C. JUMA

ELIZABETH C. MITEI (suing as officials

of Chamasis Women's Group)PLAINTIFFS

VERSUS

ESTHER CHEPKURUI MAGAI1ST DEFENDANT

VERONICA ARAP SANG2ND DEFENDANT

MUSA BULHAN3RD DEFENDANT

RULING

1. This ruling is in respect of plaintiffs' Notice of Motion dated 16th October 2014. The application is brought under Order 5 rules 1, 2, 17(1) and (2) of the Civil Procedure Rules 2010. The pertinent prayers sought in the application are:

1. Spent.
2. That this honourable court be pleased to reissue the summons to enter appearance to the 3rd defendant.
3. That this honourable court be pleased to grant leave to the plaintiffs/applicants to effect service of the summons to enter appearance upon 3rd defendant/respondent through registered post.
4. That leave be granted to the applicants to amend their plaint to include SUSAN TAPKOROI ARAP MAINA as defendant.

2. The application is supported by the affidavit of Kipkoech Bernhard Ng'etich who was the plaintiffs' advocate as at the date the application was filed. He deposes that summons in respect of the 3rd defendant which were issued on 19th March 2013 have never been served upon the said defendant since he has not been traced for purposes of personal service. As a result, the summons has since expired.

3. I have considered the application. Though served, the 1st and 2nd defendants neither filed a response to the application nor attended its hearing. In view of the affidavit of Hebron Odhiambo Omollo, it is clear that the plaintiffs had made unsuccessful efforts to personally serve the 3rd defendant with summons. I

also note that the proposed 4th defendant was a signatory to the sale agreement dated 4th December 2008 and that in the said agreement the postal address of the 3rd defendant is captured as P. O Box 15420 Nakuru.

4. In the circumstances, I make the following orders:

- a) Summons to enter appearance in respect of the 3rd defendant are hereby renewed and extended for a period of twelve months from the date of this ruling.
- b) Leave is hereby granted to the plaintiffs to effect service of summons to enter appearance upon the 3rd defendant by registered post through the postal address P. O Box 15420 Nakuru.
- c) Additionally, the plaintiffs to effect service of summons to enter appearance upon the 3rd defendant by way of an advertisement in a daily newspaper of national circulation.
- d) Leave is hereby granted to the plaintiffs to amend the plaint to include SUSAN TAPKOROI ARAP MAINA as 4th defendant in terms of the draft amended plaint annexed to Notice of Motion dated 16th October 2014.
- e) The service of summons and amendment to be effected within 21 days from the date of this ruling.
- f) The 3rd defendant to enter appearance within 21 days from the date of whichever option of service that is last.
- g) Costs in the cause.

Dated, signed and delivered in open court at Nakuru this 29th day of September 2017.

D. O. OHUNGO

JUDGE

In the presence of:

Mr. Mwalo holding brief for Mr. Morintat for the plaintiffs/applicants

No appearance for the defendants/respondents

Court Assistant: Gichaba