



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 101 OF 2017

MILLICENT MUKWANYAGA KIMONYE PLAINTIFF

VERSUS

MOSES KATHURIMA ANDEREA DEFENDANT

R U L I N G

1. The Notice of Motion dated 23rd March, 2017 seek the following orders:-

- a) That the Honourable Court be pleased to grant plaintiff leave to file this suit out of time.
- b) That consequently to prayer one (1) above the suit herein be deemed to have been property filed.
- c) That costs of this application be in cause.

2. The Application is based on the grounds that:-

- a) This suit is based on breach of contract.
- b) The agreement hereto was dated 20/2/2007 and six (6) years are long gone within which such suit should be filed.
- c) It is now just to deem the suit herein as properly filed.
- d) That due to oversight we filed this suit before leave but there is no harm if we get this leave now since the defendant is yet to be served and the same is procedural.

3. The application is supported by the Affidavit sworn on 23rd March, 2017 and has the following grounds:-

- 1) That she is the plaintiff herein hence capable of swearing this affidavit.
- 2) That the agreement in issue is dated 20/02/2007 (annexed is copy marked EOK 1).
- 3) That six years stipulated for filing such suit based on contract is long gone due.
- 4) That this matter has been delayed because the defendant has been promising to transfer this parcel in vain.
- 5) That this application is exparte since the defendant has not been served.

4. The Application is found meritorious, the same is allowed.

5. Defendant to be served with all the suit documents within 14 days from date of delivery of this ruling, failure to which the application will stand as dismissed.

DELIVERED, DATED AND SIGNED AT MERU THIS 27TH DAY OF SEPTEMBER, 2017

IN THE PRESENCE OF:

C:A Janet

Ogoti for Plaintiff/ Applicant -present

HON. L. N. MBUGUA

ELC JUDGE