



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

MISC. APPLICATION NO. 6 OF 2017

IN THE MATTER OF APPLICATION OF LIMITATION OF ACTIONS ACT CAP 22 LAWS OF KENYA

AND

IN THE MATTER OF APPLICATION BY GEOFFREY M'NDIERA M'RUKARIA FOR LEAVE TO FILE SUIT OUT OF TIME

GEOFFREY M'NDIERA M'RUKARIA.....APPLICANT

VERSUS

M'TURUCHIU M'MITHIGA.....RESPONDENT

R U L I N G

1. The Exparte Originating Summons dated 27th February,2017 seeks the following orders:-

- 1) That the applicant be granted leave by this Honourable Court to file suit out of time against the Respondents seeking an order of cancellation of land Title No. NTIMA/IGOKI/221 and rectification of the register thereon and costs.
- 2) That costs of this application be cost in the intended suit.

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

- a) The claim is based on FRAUD discovered in 1995 and customary claim and the land was gathered in my name and I occupied the same for 38 years openly without any secrecy but as of right. That High Court (O.S) No. 180 of 1995 has since abated.
- b) That when I bought the green card I discovered that the suit parcel of land was registered in the name of somebody who never existed.
- c) The matter involves sensitive land issues and its only fair that the application be granted leave t enable me ventilate the issue on merit.
- d) The delay is explainable.

3. Applicant has sworn an affidavit filed on 27.02.17 stating that the persons registered in respect of the suit land do not exist.

4. I proceed to give the following orders.

- 1) **The Applicant is allowed to file the suit but the issue of limitation will be determined in the main suit.**
- 2) **The suit to be filed within 14 days from the date of delivery of this ruling, otherwise the application stands as dismissed.**
- 3) **The order herein to be extracted and to form part of the record in the intended suit.**

DELIVERED, SIGNED AND DATED IN OPEN COURT AT MERU THIS 11th DAY OF OCTOBER, 2017 IN THE PRESENCE OF:

CA: Janet

Applicant present

Respondent present

Hon. L.N. MBUGUA

ELC JUDGE