



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA ELC CASE NO 169 OF 2017**

**FORMERLY MERU ELC CASE NO.176 OF 2012**

**HENRY KIOJI NDAITHU .....PLAINTIFF**

**VERSUS**

**MAKEMBO MAGANE.....1<sup>ST</sup> DEFENDANT**

**MUGAO M'MUCHEGE.....2<sup>ND</sup> DEFENDANT**

**RULING**

1. Mr. Ondari informed me this morning that the plaintiff had passed on. Mr. Mwititi needs time to have him substituted.
2. I do note that on 26.5.2016, the court fixed 25.8.2016 as the date for formal proof proceedings. However, the next time the plaintiff's advocate was in court was on 27.7.2017, over one year later.
3. I have perused the plaint. The plaintiff's plaint dated 23<sup>rd</sup> November, 2012 has only a prayer for permanent injunction. It contains no pecuniary claim. The interlocutory injunction entered by the Deputy Registrar, dated 13.5.2013, is therefore wrongly entered. It is therefore dismissed and expunged from the court records.
4. The plaintiff's advocate is granted 45 days to substitute the deceased plaintiff.
5. The plaintiff's advocate is directed to properly serve upon the defendants with the next date for directions.
6. Parties will take directions on 29.1.2018.
7. It is so ordered.

Delivered in open court at Chuka this **14<sup>th</sup> day of November, 2017** in the presence of:

CA: Ndegwa

Ondari h/b Mwititi for the Plaintiff

**P.M. NJOROGE**

**JUDGE**