



**REPUBLIC OF KENYA**

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

**ELC CASE NO 65 OF 2012**

**DAVID MURIUKI KIUGU.....PLAINTIFF**

**VERSUS**

**ALEX MUREITHI NAAMAN.....DEFENDANT**

**R U L I N G**

There is a consent Judgment recorded on 04:10:17 whereby all the issues in dispute in this suit are settled save the issue of costs of the suit and costs in the application dated 30.10.15.

The matter here in concerned a boundary dispute which was resolved by the filing of a report of the land Registrar dated 10.11.15.

I have considered all the issues raised herein as well as the Submissions of the parties.

As rightly submitted by the defendant, “**costs are awarded at the unfettered discretion of the Court, subject to such conditions and limitations as may be prescribed.....**”

Pursuant to provisions of Section 27 of the CPA “**Costs of any action.... Shall follow the event ....**”

I have taken into consideration the averments raised by the Plaintiff in paragraph 4 and 5 of the Plaint. The report of 10.11:15 and the Consent orders of 04:10:17 put to rest Plaintiff’s claim whereby prayer a. b. and c in the plaint were allowed.

I have also taken into account the long period this matter has been in the court’s arena. To be precise, five years.

I have also considered that defendant had opposed the application dated 30:10:15 vide a Replying Affidavit of 19.02.16.

In the Circumstances, I find that Plaintiff is entitled to costs.

I therefore, order that defendant pays to the Plaintiff the Costs of the suit as well as costs in the application dated 30:10:15 with interest at Court rates. The interest to run from the date of delivery of this ruling.

**SIGNED, DATED AND DELIVERED IN OPEN COURT AT MERU THIS 8<sup>TH</sup> DAY OF NOVEMBER, 2017 IN THE PRESENCE OF:**

**CA:** Janet/Haway

Mwiti H/B for Waigwa for Plaintiff

Gichuki H/B for Mutuma for Defendant

**HON. L.N. MBUGUA**

**ELC JUDGE**