



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**  
**AT CHUKA**

**CHUKA ELC CASE NO 23 OF 2017**

**NKOROI NJERU.....PETITIONER**

**VERSUS**

**DISTRICT LAND ADJUDICATION & SETTLEMENT**

**OFFICER MERU SOUTH DISTRICT.....1<sup>ST</sup> RESPONDENT**

**DIRECTOR OF LAND ADJUDICATION..2<sup>ND</sup> RESPONDENT**

**HON. ATTORNEY GENERAL.....3<sup>RD</sup> RESPONDENT**

**BAUNI M'NKAMBI.....4<sup>TH</sup> RESPONDENT**

**RULING**

1. This application is dated 15.11.2017 and seeks orders:-

a) That the honourable court be pleased to review its orders of prosecuting this matter by the way of written submissions and order for this matter to be heard by the way of giving oral evidence and calling witnesses.

b) That consequent to prayer (a) above the honourable court be pleased to visit the locus quo and determine the nature of occupation of each party on the ground of the subject suit before adjudicating on the ownership of the same.

c) That costs of this application be provided for.

2. The application has the following grounds:-

1. That the dispute herein is about ownership of the disputed parcels and that is why the petitioner is praying for rectification of title.

2. That ownership connotes possession or occupation which is disputed.

3. That this is a large chunk of land which has attracted a lot of tension which cannot be determined by way of submissions.

4. That also the petitioner will be praying for compensation of damages or court may award the same Sou (sic) Motu under article 159 (2) (D) of the constitution thence need for the court to witnesses (sic) by its own eyes the nature of the damages herein.

5. That it is the petitioner who was the original owner of the disputed property thus the court MUST visit the LOCUS QUO to know the nature of the permanent developments thereon and proof of the ownership of the trees on site which are too old thence help to determine ownership.

6. That the petitioner is alleging that the title herein was fraudulently gotten thus by visiting the LOCUS QUO the court will be having an upper land (sic) on the origin of this parcel.

7. That the visit will grant each side a fair hearing a front (sic).

3. The application was heard on 6.12.2017. Mr. Ogoti for the petitioner told the court that he was relying on the grounds on the face of the application and on the petitioner's supporting affidavit sworn on 15.11.2017.

4. Mr. Mutegi, holding brief for Mark Muriithi for the 4<sup>th</sup> respondent told the court that Mr. Muriithi opposed the application through Grounds of Opposition dated 5.12.2017.

5. I have considered the issues raised by the parties in their pleadings. Ideally, except in exceptional circumstances, petitions are canvassed through written submissions. I do not find that there are exceptional circumstances to warrant the hearing of this petition orally.

6. In the circumstances, this application is dismissed.

7. Parties will be given 10 minutes each to highlight their submissions.

8. Highlighting of submissions will take place on **5.2.2018**.

Delivered in open court at Chuka this **6<sup>th</sup> day of December, 2017** in the presence of:

CA: Ndegwa

Ogoti for the petitioner

Mutani for the petitioner

Mutegi h/b Muriithi for 4 respondent

**P.M. NJOROGE**

**JUDGE**