



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT NAKURU**

**ELC NO .250 OF 2014**

**JOSEPH CHERUTICH & 26 OTHERS.....PLAINTIFFS**

**VERSUS**

**KORIR KIRWA CHEPYEGON AND 5 OTHERS .....DEFENDANTS**

**RULING**

***(Application for consolidation of suits; two suits raising more or less similar issues of law and fact; application allowed)***

1. The application before me is that dated 15 May 2015. It seeks orders to have the suit Nakuru CMCC No. 696 of 2014 transferred to this court and upon transfer, the said suit be consolidated with this case. It is submitted that the said suit raising similar issues to this one and it is prudent that the two suits be heard together.
2. Essentially, I have to make a determination of whether the two suits raise similar questions of law and fact and whether it is prudent to consolidate the two and hear them together. Inevitably, I have to assess the pleadings before I can come to such finding.
3. The suit Nakuru CMCC No. 696 of 2014 was filed on 24 July 2014 in the Chief Magistrates' Court at Nakuru. It has two plaintiffs, Korir Kirwa Chepyegon and Daniel Kiprof Kipyegon, and five defendants namely, Joseph Cherutich, Joseph Matetai, Kipkebut Sambili, Aengwo Tallam and Jonathan Sumukwo. In the plaint, the two plaintiffs pleaded that they are the registered proprietors of the land parcel Kampi Ya Moto/Kampi Ya Moto Block 1/66. It was pleaded that in January 2014, the defendants without any colour of right trespassed into the said land and started erecting structures. In the suit, the plaintiffs asked for orders of permanent injunction and eviction.
4. This suit was commenced on 2 September 2014. The plaintiffs are 27 in number. They comprise the defendants in the suit Nakuru CMCC No. 696 of 2014 and others. They claim to be members of Morop Farm, a group formed to buy land and settle its members. The plaintiffs pleaded that the defendants, who are six in number, and who include the two plaintiffs in the suit Nakuru CMCC No. 696 of 2014, fraudulently procured title to the land parcels No. 66. They sought cancellation of the title of the said defendants.
5. It will be seen from the above that both suits relate to the parcel No. 66. The parties are more or less almost similar. I think it will be prudent for all issues to be determined in one court and for the two

competing claims to be heard simultaneously.

6. I therefore allow this application. I do order the suit Nakuru CMCC No. 696 of 2014 to be moved into this court and to be consolidated with this suit and a consolidated hearing and judgment be rendered.

7. I make no orders as to costs.

8. It is so ordered.

**Dated, signed and delivered in open court at Nakuru this 31st day of March, 2016.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT AT NAKURU**

**In presence of :-**

Mr. Opar holding brief for Mr. Ochieng Gai for plaintiff/respondents

Ms. Jeniffer Ndeda present for defendants/applicants

Court Assistant: Janet

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT AT NAKURU**