



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
IN THE ENVIROMENTAL AND LAND COURT AT MERU
MISCELLANEOUS APPLICATION NO 48 OF 2016

ROSE GUTAMO NJERU.....PLAINTIFF/RESPONDENT

VERSUS

SORA GUYO RURICHA1ST DEFENDANT/RESPONDENT

WILLIAM LETING.....2ND DEFENDANT/APPLICANT

R U L I N G

1. This application is dated 31/05/2016 and seeks orders:-

(1) THAT this Honourable Court be pleased to certify this application as urgent and that the same be heard Exparte in the 1st instance due to its urgency,

(2) THAT this Honourable Court be pleased to transfer to this Court Civil suit in Principal Magistrate Court at Marsabit Civil suit No. 6 of 2015 for hearing and determination.

(3) THAT the 2nd Defendant applicant is suffering a security threat because of the delays of prosecuting this case.

(4) THAT the temporally orders issued by the High Court of Kenya at Malindi in Malindi High Court Constitutional Petition No. 3 of 2016 stopping the Magistrate's Court from hearing environment and land matters is further causing delay in prosecution of the suit at Marsabit Magistrate's Court thus the urgency for transfer of the suit to this Honourable Court.

(5) THAT it is in the interest of justice and in consideration that there is a security threat to North Horr Police Station that this application be allowed.

(6) THAT the Plaintiff/Respondent and the 1st Defendant/ Respondent will not suffer any prejudice if this application is allowed.

(7) THAT the costs of this application be provided for by the Plaintiff/Respondent.

2. The application is supported by the affidavit of JUSTIN M. KIONGO, a State Counsel and has the following grounds:-

(1) THAT I am State Counsel Office, of the Attorney General & Department of Justice Meru, representing the 2nd Defendant/applicant hence competent to swear this Affidavit.

(2) THAT the 2nd Defendant/Applicant is suffering a security threat because of the delays of prosecuting this case.

(3) THAT the temporary orders issued by the High Court of Kenya at Malindi in Malindi High Court Constitutional Petition No. 3 of 2016 stopping the Magistrates' Court from hearing environment and land matters is further causing delay in prosecution of the suit at Marsabit Magistrate's Court thus the urgency for transfer of the suit to this Honourable Court.

(4) THAT since the plaintiff /respondent filed the civil suit No 6 of 2015 in Marsabit Principal Magistrate's Court the same has failed to proceed and the same has been occasioned by the plaintiff/respondent and the 1st defendant/respondent and has at no time the 2nd defendant / applicant has failed to be ready and/or failed to prosecute the civil suit at Marsabit Law Courts.

(5) THAT North Horr Police Station is suffering a security scare because the orders issued by the Magistrate's Court on 16th April, 2015 in Marsabit Civil suit No. 6 of 2015 until the suit is heard and determined the same has never started a year after it was filed is prejudicial to institution under the 2nd defendant/applicant, the officer Commanding Police Station, North Horr police Station.

(6) THAT it is in the interest of justice and in consideration that there is a security threat to North Horr police station that this application be allowed.

(7) That the Plaintiff /respondent and the 1st defendant/respondent will not suffer any prejudice if this application is allowed.

(8) THAT the Plaintiffs herein will not suffer any prejudice if this application is allowed.

(10) THAT I swear this Affidavit in support of the Application annexed hereto for the transfer of Principal Magistrate's Court Marsabit Civil suit No. 6 of 2015 to this Honourable Court and pray that the application be allowed in interests of justice.

(10) THAT what is deponed to hereinabove is true to the best of my knowledge information and belief.

3. Upon consideration of the grounds on the face of the application and the supporting affidavit of Justin M. Kiongo, State Counsel, I find that the application is meritorious.

4. The following orders are granted:-

(1) Prayer 2 is granted with the effect that Civil suit No 6 of 2015 in the Principal Magistrate's Court at Marsabit be transferred to this Court for hearing and determination .

(2) Costs shall be in the cause.

5. It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 18TH DAY OF JULY, 2016 IN THE PRESENCE OF:

CC:

Lilian /Daniel

Kiongo for Exparte Applicant.

P. M. NJOROGI

JUDGE