



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**IN THE MATTER OF CONTEMPT OF COURT PROCEEDINGS**  
**MISC. CIVL APPLICATION NO. 5 OF 2008**  
**FORMERLY NAIROBI NO. 417 OF 2007**

JEREMIAH M'NJOGU.....APPLICANT

VERSUS

JANET TIRINDI KATHUNGURI (DECEASED).....1ST RESPONDENT

DISTRICT LAND REGISTRAR.....2ND RESPONDENT

DISTRICT SURVEYOR.....3RD RESPONDENT

CHAIRMAN, LAND CONTROL BOARD .....4TH RESPONDENT

GELVERSE MUTETHIA JOHN.....5TH RESPONDENT

MARTHA NAITORE MURITHI.....6TH RESPONDENT

**RULING**

1. This matter came up for directions on 25/05/2016. Jeremiah M'Njogu was not in Court on that day although he is the one who had fixed the mention date at the registry.
2. Mrs Kuyugira told the Court that she had come on record to represent the 6th Defendant. She noted that the applicant was not in Court even though he had obtained that days mention date. She registered her surprise. Then she sought directions concerning several applications which had a nexus to this suit. She sought consolidation of the various matters.
3. Mr. Kimathi representing the Attorney General for the 2nd, 3rd and 4th Defendants told the Court that the applications dated 02/05/2007, 30/03/2016 and 27/10/2011 and HCA 21 of 1990 concerned the same subject matter and ought to be heard concurrently.
4. Mr. Nyenyire, who said that he represented the applicant in another matter, agreed that the various matters should be consolidated.
5. The applicant Jeremiah M'Njogu concurred.
6. Following this understanding I issued the following orders;

**(1) Applications dated 02/05/2007, 30/03/2016, 27/10/2011, JR 31 of 2013 and HCA 21 of 1990 be heard together concurrently with the applicant filing and exchanging submissions regarding the applications within 40 days of today and all the other parties to file and exchange their submissions within 30 days after being served by the applicant with his Submissions.**

**(11) As undertaken, Mrs. Kayugira for the 2nd Respondent in the application dated 30/03/2016 to serve upon the applicant, Jeremiah M'Njogu, the orders issued by this Court today.**

**(111) Directions on 07/09/2016.**

7. On 07/09/2016 when the parties came for directions I learnt that there were 3 matters being handled by the Hon. Justice Gikonyo, J. These were mentioned as:

**a) Succession Cause No. 351 of 2002.**

**b) HCA 21 of 1990.**

**C) Misc. Application No. 19 of 2016.**

8. The Parties agreed that these suits involved the same subject as the ones being handled by this Court in the following matters:-

**a) JR 5 of 2008 (also called former Nairobi 417 of 2007)**

**b) Misc. Application. No. 7 of 1998 (Formerly Nairobi 43 of 1991)**

**c) JR. 31 of 2013**

**d) JR 7 of 2016**

9. Mrs. Kayugira told the Court that all the suits mentioned above had a common thread being parcel No.. NTIMA/NTAKIRA/ 685 . She informed the Court that this parcel land was adjudicated upon by the Court of Appeal in 1988 and the land was subdivided in 1991 to form Parcel Numbers NTIMA/NTAKIRA/2488 and 2489. She told the Court that in all his applications, the applicant seeks consolidation of the resultant parcel to revert to the original parcel No. NTIMA/NTAKIRA/685.

10. I opine that the applicant may be involved in a forum shopping frolic of his own. Hearing of suits concerning the subject matter may lead to Courts of horizontal and concurrent jurisdiction reaching diametrically opposed rulings and Judgments. I state categorically that this Court lacks jurisdiction to consolidate suits pertaining to succession issues with other suit. Accordingly the order to consolidate the applications dated 02/05/2007, 30/03/2016, 27/10/2011, JR 31of 2013 and HCA 21 of 1990 is vacated for having been issued per incurium.

11. I orders as follows :

**(1) Succession Cause No. 351 of 2002, HCA 21 OF 1990, JR 5 OF 2008, Misc. Application No. 7 of 1998, JR 31 of 2013, JR 7 of 2016, Misc Application No 19 of 2016 and any other related suits, if they exist, that have their hearing in the ELC be heard by the Hon. Justice Gikonyo, J, or be deferred until all issues concerning Succession are heard and determined.**

**(2) Parties to obtain a date for apposite directions before the Hon. Justice Gikonyo, J, whose Court handles Succession matters.**

10. It is so ordered

11. Costs shall be in the cause.

**DELIVERED IN OPEN COURT AT MERU THIS 14<sup>TH</sup> DAY OF SEPTEMBER, 2016 IN THE PRESENCE OF:-**

CC: Daniel /Lilian

Jeremiah M' Njogu -Applicant

Nyenyire for the Applicant

Other Parties absent

**P. M. NJOROGE**

**JUDGE**