



**REPUBLIC OF KENYA**

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

**ENVIRONMENT AND LAND**

**MISC. APPLICATION NO 94 OF 2016**

IN THE MATTER OF AN APPLICATION FOR LEAVE TO FILE FOR JUDICIAL REVIEW BY ROBERT NTARANGWI, DAVID MURAA FOR ORDERS OF CERTIORARI & PROHIBITION

AND

IN THE MATTER OF MERU CENTRAL DISTRICT LAND TRIBUNAL CASE NO 51 OF 2005

BETWEEN

REPUBLIC .....APPLICANT

VERSUS

MERU CENTRAL LAND DISTRICT TRIBUNAL .....1ST RESPONDENT

GLADYS GATIRIA ROBERT.....2ND RESPONDENT

JUDITH NAITORE ROBERT.....3RD REPENDENT

TIMOTHY KIRIMI NTARA.....4TH RESPONDENT

PHILIP MUGUNA NTARA.....5TH RESPONDENT

**RULING**

1. This application is filed under Sections 1A , 1B and 3A of the Civil Procedure Act, and Order 51 Rule 1 of the Civil Procedure Rules.

2. The application seeks orders: -

***1. THAT this Honourable Court be pleased to certify this application as urgent.***

***2. THAT this Honourable Court do authorize and order that a skeleton file be opened in respect of Meru High Court Misc. Application No. 214 of 2005.***

***3. THAT the cost of this application be provided for.***

3. The application is supported by the Supporting Affidavit of **GLADYS GITIRIA ROBERT** and has the following grounds:-

*(a) This Judicial Review matter was filed in the High Court sometime in 2005.*

*(b) Leave was granted to the Ex-parte Applicants and the substantive application (notice of motion) was filed at the High Court Central Registry on 10th January, 2006.*

*(c) The 2nd to 5th Respondents filed Notice of Preliminary Objection on 11th January, 2008 objecting to the Ex-parte Applicants Notice of Motion.*

*(d) William Ouko J as he then was, sustained the objection and dismissed the Ex- Parte Applicants Motion and awarded costs to 2nd to 5th Respondents.*

*(e) The said costs totalled to Kshs 55,000/= after taxation.*

*(f) The Ex-parte Applicants have failed to meet these costs to the detriment of the 2nd to 5th Respondents.*

*(g) The Court file in respect of this matter has been missing since 2015 and despite various visits and letters by the 2nd to 5th Respondents to the Meru High Court Deputy Registrar their efforts have borne no fruits.*

*(h) In light of the foregoing it is in the interest of justice and fairness that this application be granted as the 2nd to 5th Respondent deserve to be paid their costs.*

4. On 07/12/2016, at the exparte stage, Advocate Mutembei ,holding brief for Advocate Rimita for the 2nd to 5th Respondents, urged the Court to allow the application because doing so would facilitate obeisance to the course of justice.

5. I find that the application is meritorious.

6. It is declared urgent and prayers 1 and 2 are granted.

7. Costs shall be in the cause.

8. It is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 7TH DAY OF NOVEMBER, 2016 IN THE PRESENCE OF:-**

C:A Daniel/James

Mutembei h/b Rimita for the Applicant

**P.M. NJOROGE**

**JUDGE**