



**REPUBLIC OF KENYA**

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

**ELC CASE NO. 8 OF 2015**

**MWANGI CHEGE.....PLAINTIFF**

**VERSUS**

**JAMES WAHOME WAGENI.....1<sup>ST</sup> DEFENDANT**

**JEOL MAINA NDUNGU .....2<sup>ND</sup> DEFENDANT**

**STEPHEN MWEMA KARIUKI .....3<sup>RD</sup> DEFENDANT**

**NAKURU LAND REGISTRAR.....4<sup>TH</sup> DEFENDANT**

**RULING**

***(Application to transfer suit from subordinate court and consolidate it with a suit pending before the ELC; subject matter the same; application allowed).***

1. The application before me is that dated 2 February 2015. It seeks orders to have the suit Nakuru CMCC No. 940 of 2014 transferred to this court and be consolidated with this suit. The core reason given is that the said suit raises substantially the same issues to those raised in this case and it is best that the suit be transferred to this court for hearing and disposal.

2. I have seen the supporting affidavit which has annexed the pleadings in the said suit Nakuru CMCC No. 940 of 2014. The suit therein was commenced by the 2nd defendant herein against the plaintiff herein. In the case, the 2nd defendant (as plaintiff) pleaded that he together with two other persons, namely James Wahome Wageni and Stephen Mwema Kariuki, own the land parcel No. Nakuru Municipality Block 29/2364 (Ronda). He contended that the defendant (who is the plaintiff in this suit), was illegally on the land.

3. In this case, the plaintiff (defendant in the case before the subordinate court) has pleaded that he is entitled to a share of the land parcel Nakuru Municipality Block 29/ 2364 (Ronda). It will be noted that he is making a claim over the same property that is the subject matter in Nakuru CMCC No. 940 of 2014. The defendants in this case are four, the plaintiff in the suit Nakuru CMCC No. 940 of 2014, James Wahome Wageni, Stephen Mwema Kariuki (mentioned as beneficiaries in the subordinate court matter) and the Nakuru Land Registrar.

4. It is apparent that the subject matter is the same. The two suits cannot proceed separately. They need to be consolidated for one judgment to be delivered. The respondent has himself not opposed this application. I see no reason why I should not allow it. I allow this application and order the suit Nakuru CMCC No. 940 of 2014, to be transferred to this court, and be consolidated with this suit for hearing and

disposal. The lead file shall be the matter filed before this court.

5. I make no orders as to costs.

It is hereby ordered.

**Dated, signed and delivered in open court at Nakuru this 8<sup>TH</sup> July 2015.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**

**In presence of : -**

Ms Alwala for 2<sup>nd</sup> defendant/applicant

Mr Morintat holding brief for Mr Mongeri for plaintiff/respondent

N/A for state law office for 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> defendants

Janet: Court Assistant

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**