



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
LAND AND ENVIRONMENTAL COURT
MISCELLANEOUS CIVIL APPLICATION NO. 57 OF 2015
BEATRICE MWARANIA.....APPLICANTS
VERSUS
M'MURUNGI CHEBERE.....RESPONDENT

R U L I N G

This application is predicated upon Sections 1A, 1B, 3A and 18 of the Civil Procedure Act. It is dated 7.8.2015. It seeks orders:-

1. ***THAT*** the Court be pleased to stay the proceedings of Meru Chief Magistrate Civil case Number 238 of 2013 **M'MURUNGI NCHEBERE VERSUS BEATRICE MWARANIA AND 2 OTHERS** pending the hearing and determination of this application.
2. ***THAT*** this Honourable Court be pleased to withdraw Meru Chief Magistrates Civil Case Number 238 of 2013, **M'MURUNGI NCHEBERE VERSUS BEATRICE MWARANIA AND 2 OTHERS** from Subordinate Court and have the same transferred to the Environment and Land Court for trial and disposal.
3. ***THAT*** Meru Chief Magistrate's Civil case Number 238 of 2013, **M'MURUNGI NCHEBERE VERSUS BEATRICE MWARANIA AND 2 OTHERS** once transferred, be consolidated or heard together with Meru Environment and Land Case Number 42 of 2014, **MARGARET NTHIGA MURUNGI AND 11 OTHER VERSUS M'MURUNGI NCHEBERE** and another.
4. ***THAT*** costs of this application be provided for.

The application is buttressed by the affidavit of Beatrice Mwarania and Doreen Mwenda. It has the following grounds:-

- a. ***THAT*** the Land Parcel Numbers **ABOTHUGUCHI/ KATHERI/ 4360 and ABOTHUGUCHI/KATHERI/4361** in which the plaintiff is seeking in his pleadings the removal of cautions placed by the applicants are some of the parcels which are the subject of Meru Environment and Land case Number 42 of 2014.
- b. ***THAT*** the issues arising from the Plaintiff claim in Meru Magistrate Civil Case Number 238 of 2013 **M' MURUNGI NCHEBERE VERSUS BEATRICE MWARANIA AND ANOTHER**

defendants counterclaim and the issues, and claims arising from Meru Environment and land case Number 42 of 2014 can best be determined if the matters are heard together in Environment and Land Court.

*c. **THAT** both the Plaintiff and the 1st and 2nd defendants are also parties in Meru Environment and Land Court Case Number 42 of 2014 and their claims will adequately be adjudicated upon before the Environment and Land Court and there is need to have the file transferred and heard together to avoid conflicting of decisions in both cases.*

On 4/11/2014, Mrs. Ntarangwi told the Court that suit No. Meru CMCC NO. 238 of 2013 was older than ELC 42 of 2014. She said that the suit once consolidated could be heard either in the CMCC Court or by the ELC Court.

Mr. Kirima told the Court that he was not opposed to the application.

Mrs. Ntarangwi informed the Court that she had served Miss E.G. Mwangi who represents some interested parties in ELC NO 42 of 2014. Mr. Mutegi who was holding brief for Miss E.G Mwangi told the Court that Miss E. G Mwangi was not opposed to the application.

In the circumstances, this application is allowed with costs to be in the cause.

It is so ordered.

Delivered in open Court at Meru this 5th day of November, 2015 in the presence of:-

CC: Daniel /Lilian

P. M. NJOROGE

JUDGE