



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION**

**MISC. CRIMINAL APPLICATION NO.323 OF 2015**

**NAIROBI CITY COUNCIL.....APPLICANT**

**VERSUS**

**DIRECTORATE OF CRIMINAL INVESTIGATIONS.....1<sup>ST</sup>  
RESPONDENT**

**THE NATIONAL POLICE SERVICE.....2<sup>ND</sup>RESPONDENT**

**CHAKA LIMITED.....INTERESTED PARTY**

**AND**

**GRACE WAIRIMU SORORA.....PRESENT APPLICANT**

**RULING**

The application dated 25<sup>th</sup> January 2016 is for allowing for the following reasons:

- I. The application filed on 16<sup>th</sup> September 2015 was filed in abuse of the due process of this court.
- II. The applicant in that case, Nairobi City Council, did not disclose to the court critical and material information that there were other proceedings pending before the Land & Environment Court and the Court of Appeal over the same subject matter that they were canvassing before the court.
- III. The said applicant ought to have enjoined the present applicant *i.e.* Grace Wairimu Sorora in the proceedings because she was a necessary party to the proceedings and would be affected by any orders that may be issued by the court.
- IV. The consent or the purported consent recorded in court on 21<sup>st</sup> October 2016 was obtained after this court was misled and duped because not all material facts were placed before the court for its consideration.
- V. The said proceedings were commenced with ulterior purposes *i.e.* The police do not require a court order to investigate an alleged crime that has been reported to them. They do not require an order from the court not hearing the case to forensically examine documents which are alleged to be forged. It is clear to this court that the said order was obtained specifically to enable SP John Muinde to prepare another Forensic report to rebut an earlier report that had been prepared which had declared the particular documents presented to him to be genuine. It is clear to this court that the said proceedings were intended to assist Chaka Limited to advance its claim for the property that the present applicant is in occupation of.
- VI. Where the court forms the opinion that a litigant is misusing the court process to advance or to subvert the course of justice, the court must act decisively to prevent such abuse from continuing or from such litigant making a mockery of the judicial process.

VII. From the foregoing, the application dated 25<sup>th</sup> January 2016 shall be allowed in terms of Prayers 2, 3 & 4. The applicant shall have the costs of the application which shall be paid by the Nairobi City Council and the Respondents.

**DATED AT NAIROBI THIS 21<sup>ST</sup> DAY OF APRIL 2016**

**L. KIMARU**

**JUDGE**