



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
MISC. APPLICATION NO. 79 OF 2013

MWANIKI IRERI & CO ADVOCATES.....
.....APPLICANT/RESPONDENT

VERSUS

GIANT AUCTIONEERS.....1ST
RESPONDENT

BOARD OF GOVERNORS SA KYENI SECONDARY SCHOOL.....2ND
RESPONDENT/APPLICANT

RULING

This is the Notice of Motion dated 23/7/2013. It is brought under Section 3A of the Civil Procedure Rules for orders that:-

- a. ***The exparte orders granted on 10/7/2013 be vacated.***
- b. ***The application by Giant Auctioneers dated 10/7/2013 be allowed.***

The grounds are on the face of the application. The Applicants who are the Respondent in the main application before this Court wish to have the exparte orders issued here on 3/7/2013 vacated. The Respondent came before this court on 3/7/2013 under certificate of urgency. The court was by then hearing the Election Petition No. 1/2013. I could not give any date for inter partes hearing but certified the matter as urgent because it involved a public school.

The Respondent has not taken any steps to prosecute the application. Secondly the Respondent has also not served the Applicants with the application to enable them respond. It clearly shows that the Respondent was not keen on having the matter heard but only having stay of execution. This is an abuse of the Court process.

The said orders issued on 3/7/2013 are hereby vacated. I therefore grant prayer No. 2 of the Notice of Motion dated 23/7/2013. Prayer No. 3 is not for this Court to deal. The Respondent to pay costs of this application.

DELIVERED, DATED AND SIGNED AT EMBU THIS 30TH DAY OF SEPTEMBER 2013.

H.I. ONG'UDI

J U D G E

In the presence of:-

Mr. Ireri for Applicants/Respondents

Njue CC