



REPUBLIC OF KENYA

High Court at Machakos

Miscellaneous Application 140 of 2011

IN THE MATTER OF THE REGISTERED LAND ACT CAP 300 OF THE LAWS OF KENYA

IN THE MATTER OF AN APPLICATION FOR REMOVAL OF CAUTION UNDER SECTION 133 OF THE SAID ACT

BETWEEN

RUTH MONTHE IVULU APPLICANT

VERSUS

1. MACHAKOS DISTRICT LAND REGISTRAR

2. GODFREY GITAHI KEEN RESPONDENTS

RULING

Though this amended **Notice of Motion** dated 6th July 2011 seeking the removal of a caution, came up for hearing before me on 23/5/2012, I am not in a position to give a ruling on the same because it has been brought to my attention that there is another pending suit on the same land and between the same parties, that is **Machakos High Court Civil suit 284 of 2011**.

Granting the orders sought in the amended Notice of Motion will be tantamount to substantively determining the pending suit which is for specific performance of a contract of sale on the subject land. Because of that reason, I will not give a ruling in this application. Instead I order that the pending suit, that is **Machakos Civil Suit No. 284 of 2011** be fixed for hearing at an early date. Any application for removal of the caution or for any other necessary orders will be made in the pending suit that is **Machakos HCCC 284 of 2011**. I order that a copy of this ruling to be filed in **HCCC 284 of 2011** for guidance.

I make no orders as to costs.

Dated and delivered at Machakos this 5th day of **December** 2012.

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George Dulu

Judge

In the presence of:

Mr Kasyoka holding brief for Mr Mung'ata for Applicant

N/A for Ogeto for 2nd respondent and Interested Party

Mutinda – Court clerk