



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

**CIVIL SUIT NO. 3895 OF 1990**

**ALICE LINDA KIRANGA.....1<sup>ST</sup>**  
**PLAINTIFF/RESPONDENT**

**FRANCIS LUKOYE KIRANGA.....2<sup>ND</sup>**  
**PLAINTIFF/RESPONDENT**

**EDWARD ALLAN ROBINSON.....3<sup>RD</sup>**  
**PLAINTIFF/RESPONDENT**

**V E R S U S**

**DIONYUSUS M. KINYUA.....1<sup>ST</sup>**  
**DEFENDANT/APPLICANT**

**JONAH OKONGO OUMA.....2<sup>ND</sup>**  
**DEFENDANT/APPLICANT**

**R U L I N G**

This suit by the Plaintiffs against the Defendants was on 2<sup>nd</sup> November 2010 dismissed with costs for want of prosecution. On 18<sup>th</sup> January 2011 the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants (the same parties who had applied for the dismissal) filed this motion under sections 1A, 1B and 3A of the Civil Procedure Act to have the caveat registered on parcel L.R. No. 14930 I.R. 48160 as I.R. 888/18 and/or any other caveat by one Edward Allan Robinson (the 3<sup>rd</sup> Plaintiff) be lifted by the Lands Registrar. The Defendants say that the Land Registrar has advised them that they cannot transact on the parcel owing to the caveat registered by the 3<sup>rd</sup> Plaintiff. The parcel has an outstanding rates of KShs. 2,348,453/= which the Defendants want to pay, but that they can't without the caveat.

This suit was not by the Defendants and neither did they have a counterclaim for the removal of the caveat, or at all. They have no judgment which they seek to execute. The Registrar of Titles was not a party to the suit and the application was not served on him. Under Section 57 (5) of the Registration of Titles Act (Cap.281) an application for removal of caveat has to be by summons.

In short, the application is dismissed with costs.

**DATED AND DELIVERED AT NAIROBI THIS 31<sup>ST</sup> DAY OF MARCH 2011**

**A. O. MUCHELULE**

**J U D G E**