



## Editorial Summary

1. *Civil Appeal*
2. *Civil Practice and Procedure*
3. *Subject of Subordinate court case*

## LAND

- 3.1 *LR Ruiru/Ruiru East Block 2/150*
- 3.2 *Originating summons*
- 3.3 *Judgment of subordinate court delivered on  
27<sup>th</sup> June 2011.*
- 3.4 *Orders of eviction issued on 8<sup>th</sup> July 2011.*
- 3.5 *Appellant original 1<sup>st</sup> defendant files appeal on  
15<sup>th</sup> July 2011*
- 3.6 *Files application seeking orders of stay of  
execution of the appellant from the suit land.*
- 3.7 *Respondent in reply, there is nothing to stay  
as matter overtaken by event.*

4. *In reply/submissions:*

4.1 *The applicant prays for status quo pending  
appeal.*

5. *Held:*

*Application for status quo.*

*There be restriction of the title, not to be  
sold transferred in any way till determination*

*of the appeal.*

6. *Case Law:*

7. *Advocates :*

i) *J. Musyoka instructed by M/s P.K. Njoroge & Co Advocates for  
appellant/applicant*

ii) *Kahuthu G.J. holding brief for Rung'are M instructed by M.M. Rungare & Co  
Advocates for respondent/respondent.*

**SALOME MUMBI KARUMBA ..... APPELLANT/RESPONDENT**

**VERSUS**

**STEPHEN NDICHU NJIHIA ..... RESPONDENT/ APPLICANT**

## **R U L I N G**

*Stay of Execution Application*

*Notice of Motion 29<sup>th</sup> August 2011*

### **I. BACKGROUND**

1. In this land matter that involved the issue of a land buying company as to whom between legal owners of plot 2/340 and block 2/150 own Ruiru/Ruiru East.
2. The matter was before the Resident Magistrate's court at Thika civil case 168/91.
3. The wish of the appellant is that there should be no interference of the land pending the hearing interparties of the appeal in the suit land before that court. (The issue of the land being double allocation.) The trial magistrate after arbitration at the company made orders of eviction on 27<sup>th</sup> June 2011. The application for stay of execution was filed on 15<sup>th</sup> July 2011 as was the appeal.
4. Respondent stated that the orders of eviction was effected on 14<sup>th</sup> August 2011. There is nothing left to stay.
5. This is admitted by the applicant.

### **II FINDINGS**

6. The exparte orders of Dulu J issued on 12<sup>th</sup> September 2011 may be confirmed on the following terms.
7. That there be no dealings with land title Ruuiru/Ruiru/East block 2/150 until the determination of this appeal suit. There be a restrain on the title only, that it be not sold, transferred or dealt with in anyways to preserve the land till the determination of the appeal.

8. There will be costs in the application.

DATED THIS 23<sup>RD</sup> DAY OF MARCH 2011 AT NAIROBI

**M.A. ANG'AWA**

**JUDGE**

*Advocates* :

i) *J. Musyoka instructed by M/s P.K. Njoroge & Co Advocates for  
appellant/applicant*

ii) *Kahuthu G.J. holding brief for Rung'are M instructed by M.M. Rungare & Co  
Advocates for respondent/respondent*