

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI

ELC CASE NO. 291 OF 2008

PETER KURIA
KIMONDO.....PLAINTIFF

VERSUS

EDWARD M.M. TENGA.....1ST DEFENDANT

CITY COUNCIL OF NAIROBI.....2ND DEFENDANT

RULING

The plaintiff and the 1st defendant are litigating upon a parcel of land known as Plot No. S. 28 Kahawa West Phase II. The 2nd defendant is the allocating authority. It is clear from the pleadings that there are competing interests in respect of the said parcel of land. Whether or not either the plaintiff or the 1st defendant is the owner is clearly a matter of evidence. Any orders of injunction made at this stage in favour of any of the two parties may lead to prejudice and therefore the only order that commends itself at this stage is to restrain both the plaintiff and the 1st defendant from dealing with the property aforesaid. In so doing, the property will be preserved until the hearing and determination of this suit. I note that the pleadings herein are closed and the parties shall now comply with order 11 of the Civil Procedure Rules to facilitate expeditious disposal of this matter. The costs shall be in cause.

Orders accordingly.

Dated, signed and delivered at Nairobi this 22nd day of June, 2011

A. MBOGHOLI MSAGHA

JUDGE