



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**CIVIL CASE NO. 132 OF 2006**

CHARLES K. KIPNGOK.....PLAINTIFF/RESPONDENT

**VERSUS**

JAMES STEPHEN KIPRUTTO A. NGOK.....DEFENDANT/APPLICANT

**RULING**

This is the third Ruling on substantially the same issue, objection proceedings to the sale of the judgment debtors, property known as Title No. Kericho/Kipchimchim/2248 and 2249 by the sons of the late James Stephen Kiprutto A. Ngok. Similarly applications were dismissed with in Rulings dated 7<sup>th</sup> May 2010 and 6<sup>th</sup> May 2011. And yet there is another application by the same Objectors, now disguised as an application to be allowed to pay the decretal sum by Shs 50,000/= per month until payment in full.

The application is technically incompetent, and is bad in law and should indeed be struck out as prayed by counsel for the Plaintiff/Respondent in his grounds of opposition dated and filed on 2<sup>nd</sup> June 2011.

The decree herein was issued by this court. So it cannot exercise the powers of a court to which a decree has been sent. Reference to Order XXI rule 22 of the former rules of procedure is incompetent. And reference to the courts power do substantial justice under Section 1A & 1B and Section 3A of the Civil Procedure Act is no more than abuse of the process of court. I do not think with the greatest to the feelings of members of the late Defendant's estate, it is either fair or just to go round the court in a circus over the same issue.

If the applicant could accept the loss of their father, and move on, what is there in a parcel of land which once under a decree of court is no more than a commodity for sale? The applicant's constant and persistent use of the process of the court is a clear demonstration that they have no respect for it unless, the orders are made in their favour. That is not how the rule of law works. The rule of law entails the recognition of other people's rights, and obedience to the orders of court.

The applicants have demonstrated by the multiplicity of quite incompetent applications that they wish to have no track with the rule of law, and obedience of court orders unless as observed above, the orders are in their favour.

I entirely agree with the Plaintiff's/Respondent's counsel's grounds of opposition that this matter is not only *res judicata*, but as a matter of law, the Applicants have no *locus standi* in this matter, the properties do not belong to them, as already observed, the application is incompetent and bad in law.

For those reasons the applicant's application dated and filed on 30<sup>th</sup> May 2011 is dismissed with costs.

**Dated, signed and delivered at Nakuru this 10<sup>th</sup> day of June 2011**

**M. J. ANYARA EMUKULE**  
**JUDGE**