



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**HCCC NO. 112 OF 1999**

**LESIIT J.**

**CECILIA KITHINJI & 22 OTHERS.....PLAINTIFF/APPLICANT**

**VERSUS**

**COUNTY COUNCIL OF MERU & 15 OTHERS .....DEFENDANT/RESPONDENT**

**RULING.**

The application is a chamber summons dated 25<sup>th</sup> August, 2010 brought under Rules 3(2) of the High Court Vacation Practice Rules and under section 3, 3A of the Civil Procedure Act and Order 21 Rule 22(1) of the Civil Procedure Rule. It seeks the following orders:

1. That this Honourable Court to certify this application as urgent and that since of the same be dispensed with in the first instance
2. That this Honourable Court be pleased to grant an order staying execution of the Ruling of this court dated 13<sup>th</sup> March, 2009 which ruling dismissed the Plaintiffs' case for want of prosecution pending the hearing and determination of the application dated 3<sup>rd</sup> June, 2010.
3. That costs of this application be provided for.

The application is premised on the following grounds:

- (a) That the 14<sup>th</sup> August, 2010 attempted to evict the Applicant from Plot No. Meru Municipality/Block 11/732 the subject of this suit.
- (b) That the above said eviction is being carried out pursuant to the Ruling of this court delivered on the 13<sup>th</sup> March, 2009.
- (c) That the applicants having been aggrieved by the same ruling has already filed an application to set the same aside dated 3<sup>rd</sup> June, 2010 and which is still pending in court for hearing.
- (d) That the execution of the instant suit is immense and will render the application dated 3<sup>rd</sup> June, 2010 nugatory.
- (e) That the intended eviction is illegal

**1. That the order of this court dated 23<sup>rd</sup> March, 2009 dismissing the Plaintiffs suit be and is hereby set aside.**

2. The court hereby restores the plaintiff's case for hearing.
3. The plaintiff to pay thrown away costs to defendants to be shared equally among the plaintiffs.
4. The plaintiffs have 90 days from today to set down the suit for hearing in default of which the suit will stand dismissed. Those are my orders

**DATED, SIGNED AND DELIVERED THIS 24<sup>TH</sup> DAY OF NOVEMBER, 2011**

**J. LESIIT  
JUDGE**