



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

**AT EMBU**

**CIVIL CASE NO. 71 OF 2006**

**MOSES GACHOKI KAMWEA.....PLAINTIFF**

**VERSUS**

**KIRINYAGA COUNTY COUNCIL.....DEFENDANT**

**R U L I N G**

This is the Application dated 9<sup>th</sup> February 2010 filed by way of Notice of Motion. It's brought under Section 5(1) of the Judicature Act.

The Applicant seeks leave to commence proceedings against J.K. Arithi the clerk to Council, County Council of Kirinyaga, the 1<sup>st</sup> Respondent herein for contempt of court. The Application is supported by the sworn affidavit of George Njeru. He says this honourable court on 6/10/2009 gave orders to the effect that

“The County Council of Kirinyaga, the clerk to the County Council of Kirinyaga, the Chairman of the said Council, their employees, Servants, agents or anybody acting under their instructions and/or directions were restrained from subdividing land parcel No.NGARIAMA/LOWER NGARIAMA/431 and/or causing unauthorized persons to settle or occupy and/or use the said land pending the implementation of the Judgment in this case. And that the Kirinyaga County Council and its clerk J.K. Arithi have continued to blatantly violate and/or disobey the said order by

- 1) Continuing to settle strangers on the suit land.
- 2) Publicly inviting people to ballot for plots in the suit land
- 3) Continuing to subdivide the land”.

Annexure GN 2 confirms that.

I have confirmed that the Hon. Justice Wanjiru Karanja issued injunctive orders on 6/10/2009 against the County Council of Kirinyaga the clerk etc. The Respondents though served have not filed any Replying Affidavit and neither did they appear on 15/11/2011 inspite of having been served with the hearing notices. The Applicants have satisfied me that they have an arguable case. I therefore grant the leave sought vide the Notice of Motion dated 9/2/2011. The same should be filed within 21 days.

**DATED, SIGNED AND DELIVERED AT EMBU THIS 18<sup>th</sup> DAY OF NOVEMBER 2011.**

**H.I. ONG'UDI**  
**J U D G E**