



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

**AT MOMBASA**

**CIVIL SUIT NO. 450 OF 2010**

**JOEL KABURI KIBUNJA.....PLAINTIFF**

**VERSUS**

**MARGARET WOTHAYA KIRWEYA  
SARAH WANJIRU NJIRI  
THE REGISTRAR OF TITLES, MOMBASA.....DEFENDANTS**

**R U L I N G**

1. Upon hearing the advocates for the parties and upon reading the court order of 28/3/11, I find that the court did order on that date that:-

- (1) The 2<sup>nd</sup> defendant do file and serve within 14 days an affidavit by Mrs. Okumu advocate;
- (2) The plaintiff be at liberty to file and serve a further affidavit within 14 days of service of the affidavit in (1) above;
- (3) Hearing be stood over to 18/5/2011 (now past) and interim order extended until then; and
- (4) Summons to issue to the plaintiff and the 1<sup>st</sup> defendant to attend court and confirm the issue of consideration.

2. As I take over the hearing of the matter in accordance with Order 18 rule 8 of the Civil Procedure Rules with the partly-heard applications for injunction on behalf of the plaintiff and the 2<sup>nd</sup> defendant dated the 10/3/2011 and 25/2/2011, respectively, I find that since the matter before the court is the interlocutory applications for injunction pending the hearing and determination of the suit, the proceedings should be conducted on the basis of affidavit evidence in accordance with Order 51 rule 3 of the Civil Procedure Rules.

3. The plaintiff and the 1<sup>st</sup> defendant may be summoned to give oral testimony if the parties agree to, and prepare the suit, for full trial in accordance with Order 11 of the Civil Procedure Rules.

4. Being of this view of the matter, I now direct that the 2<sup>nd</sup> defendant shall file the affidavit of Mrs. Grace Okumu, advocate within 7 days from today and the plaintiff will respond thereto, if necessary, within 7 days after service thereof; and that the two applications dated the 25/2/11 and the 10/3/11 be heard thereafter on a date to be fixed by the court in consultation of the parties, unless the parties in the alternative concur to the full trial of the case on its merit.

**Dated and delivered this 4<sup>th</sup> day of November, 2011**

**EDWARD M. MURIITHI**  
**JUDGE**

**In the presence of**

.....for the Applicant  
..... for the Respondent  
..... Court clerk.

**EDWARD M. MURIITHI**  
**JUDGE**