



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU
Judicial Review 28 of 2009**

ERASTUS MUNENE WANJOHI.....APPLICANT

VERSUS

**PETER KARANI KARIUKI.....1ST RESPONDENT
THE ATTORNEY GENERAL2ND RESPONDENT**

R U L I N G

The plaintiff/applicant filed this suit before the High Court sitting in Nairobi on 15/3/2005. The same day, he filed the application dated 12/5/2005 under certificate of urgency. He is seeking inter alia an order against the 3 defendants restraining them from disposing, transferring, alienating and/or tampering in any way with land parcel No. KABARE/GACHIGI/1033 which was registered in his name on 19/3/2003 –as per a copy of the Green card he has annexed to his affidavit. He was granted some ex-parte orders on 15/3/2005. The said orders enjoined the defendants from dealing with the land in question in any way.

The said orders were extended severally to await the hearing of the said application interpartes.

Interestingly however, instead of continuing with the said application, or making any application for its amendment or even withdrawing the same, the applicant appears to have abandoned that application and instead filed another application dated 12/5/2009.

In the latter application he has sought 2 other orders asking the court to cancel some entries in the register which were made after the restraining orders had already been made.

This in my considered view is a gross abuse of the process of the court and it cannot be condoned at all. A party cannot file a multiplicity of applications seeking the same orders. If the situation on the ground had changed, or there were other developments in respect of the subject matter, the applicant should have applied to either amend his earlier application in order to include the new prayers or alternatively withdraw the earlier application with the leave of the court and file a fresh application and serve it on the Defendants/Respondents.

This was not done. The application dated 12/5/2009 is therefore not properly before the court. I actually note that there is no evidence that the same was ever served on the respondents the fact that it was not properly in court notwithstanding.

The application dated 12/5/2009 is therefore struck out with no order as to costs as the same was not defended.

**W. KARANJA
JUDGE**

Delivered, signed and dated at Embu this 26th day of April 2010.

In presence:- Applicant in person

