

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS
Civil Case 79 of 2010

1. JAMES MUNGAI GACHE
2. PRISCILLA WANDIA GATIHIRU
3. RUTH MUTHONI MACHARIA
(Suing as Officials of Rongai Kwale Small Scale Business Association).....APPLICANTS

VERSUS

THE COUNTY COUNCIL OF OLEKEJUADO RESPONDENT

R U L I N G

The Plaintiffs are officials of **Rongai Kwale Small Scale Business Association** and have brought this suit as such officials. The members of that association are hawkers along **Magadi Road** within **Ongata Rongai Township**. Their place of business is popularly known as **Soko Mjinga Market**. They are recognized as market traders by the Defendant who charges them a levy for trading. Their association is registered under the **Societies Act**.

The Plaintiffs have brought this suit for the main relief of a permanent injunction to restrain the Defendant from evicting them and other members of the association from their aforesaid place of business without providing them with an alternative place.

Together with the plaint the Plaintiffs filed chamber summons dated **26th April 2010**. They seek temporary restraining orders to enable them to continue trading at their usual place pending disposal of the suit. The application is brought under **Order 39, rules 1 and 2** of the **Civil Procedure Rules** (the Rules) and is duly supported by the affidavit of the 1st Plaintiff.

The Defendant, which is the local authority in-charge of Ongata Rongai Township, was duly served with the application, summons to enter appearance and copy of the plaint. It filed a memorandum of appearance on **30th April 2010** and defence on **11th May 2010**. But it did not file any papers in response to the application. The application is thus unopposed.

The Plaintiffs in this application are seeking essentially an order for maintenance or the *status quo* pending disposal of the suit, no doubt to enable them to continue earning their livelihoods. The Defendant appears to have no problem with that as it has not opposed the application.

I will in the circumstances allow the application and grant **prayer 3** thereof, pending disposal of the suit. Costs of the application shall be in the cause. It is so ordered.

DATED AT MACHAKOS THIS 7TH DAY OF JULY 2010

H. P. G. WAWERU
JUDGE

DELIVERED THIS 9TH DAY OF JULY 2010