



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
CIVIL CASE NO. 97 OF 2009**

**ANN WANJIKU GACHIE.....
.....1ST PLAINTIFF
PITY WANJIRU GACHIE.....
.....2ND PLAINTIFF**

VERSUS

**MWAI WAMUGUNDA.....
.....1ST DEFENDANT
MICHAEL MUTUGI GACHERU.....
.....2ND DEFENDANT**

R U L I N G

The Application dated 18.12.09 is seeking orders for striking out the Defendants/Respondents statement of defence dated 27.07.09. The Applicant is also asking the court to enter interlocutory judgment for the plaintiffs as prayed in the plaint. The Application was served on Fatuma Wanjiku who was then on record for the Respondents.

It is noted however that no response to the application was ever filed either by way of grounds of opposition or vide a replying Affidavit.

The Application is therefore basically not opposed. On the date fixed for its hearing, non of the respondents was present. The court therefore allowed counsel for the Applicant to proceed exparte.

I have noted the contents of the affidavit in support of the Application and the annexures thereto. Surely, these are deponments and annexures that ought to have elicited some response from the Respondents. The fact that they did not respond to the same clearly shows that they admit the contents therein.

I have considered their defence, as rightly stated by counsel for the Applicant, the same is just a bare, general denial and it does not amount to much.

Indeed it raises no triable issues at all which would necessitate the matter to proceed to full trial. For this reason and the fact that the Application is not contested, I allow the chamber summons dated 18.12.09 and grant the orders prayed therein plus costs to the Applicants.

W. KARANJA

JUDGE

Delivered, signed and dated at Embu this 22nd day of November 2010

In presence of:- Mr. Muchira for Plaintiffs/Applicants N/A by Respondents.