



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

MISC. CIVIL APPLICATION NO. 139 OF 2010

KENNETH NJUE.....1ST
APPELLANT

JAMES MUCHANGI NYAGAH.....2ND
APPELLANT

VERSUS

GRACE MARY

MICERE.....RESPONDENT

R U L I N G

I have considered the Application dated 26.11.2010. I have also carefully considered the rival affidavits and the annexures thereto.

As I stated on 29.11.2010 when I certified the application as urgent, the learned magistrate's ruling that is the subject of the intended Appeal does not form part of the annexures herein.

I am therefore unable to see the reasoning behind the same to enable me make an informed decision as to whether the magistrate applied her discretion judicially or unfairly.

In the absence of the said ruling, I have no basis whatsoever to grant any of the orders sought.

The application is therefore dismissed with costs to the Respondents.

W. KARANJA

JUDGE

Delivered, signed and dated at Embu this 7th day of December 2010

In presence of:- Mr. Kathungu for Respondent & Muthoni for

Ndonye for Applicant.