



1. Land Law
2. Civil Practice and Procedure
  - a) Order XVII r 10 Civil Procedure Rules
  - b) Part heard of Kimaru J of land matter
  - c) Trial of plaintiff heard and completed
  - d) Only defence hearing left
  - e) Order XVII Civil Procedure Rules hearing proceeding from where it left.
  - f) Evidence of Plaintiffs unclear.
3. Ruling that the plaintiff be recalled to clarify his evidence
4. **Case Law** – nil.
5. **Advocates**

K.C. Wanderi advocate instructed by the firm of M/S Wanderi & Co. advocates for the Plaintiff – present

J.R. Kimetto advocate instructed by the firm of M/S Bett & Co. advocate for the defendant – present

**WILSON CHANGTOEK ..... PLAINTIFF**

**VERSUS**

**DAVID KIPNGENO NGETICH ..... DEFENDANT**

**RULING**

**I: Civil Practice and Procedure**

1.This is a long dispute on the issue of land. The trial was begun and heard before Kimaru J on 24<sup>th</sup> July, 2006. The Plaintiff and his witnesses gave evidence. He closed his case.

2.The Hon. Judge left this station and the file coming before me for further hearing, it was agreed by parties that the evidence proceed from where it was left off **Order XVII** Civil Procedure Rules.

3.The defence hearing was heard.

4. On going through the proceedings it transpired that the evidence of PW1 the Plaintiff was unclear and needed to be clarified.

5. This court under the **Evidence Act Section 146(4) Cap 80** orders that PW1 be recalled to be examined in Chief further. The defendants will have a right to cross –examined PW1 and the right through the court to counter-act evidence through their witnesses if need arise.

**DATED** this 9<sup>th</sup> day of June, 2009 at **KERICHO**

**M.A. ANG'AWA**

**JUDGE**

**Advocates**

K.C. Wanderi advocate instructed by the firm of M/S Wanderi & Co. advocates for the Plaintiff – present

J.R. Kimetto advocate instructed by the firm of M/S Bett & Co. advocate for the defendant – present