



**JAYNE WANJIKU MWANGI ..... PLAINTIFF**

**VS.**

**CITY COUNCIL OF NAIROBI ..... 1<sup>ST</sup> DEFENDANT**

**TERESIAH ONYANGO ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

This suit was instituted by way of a Plaint. The subject matter is a parcel of land known as Plot No.B6-221 Kayole, Nairobi. There is only one and basic prayer, that is, a permanent injunction against the defendants to restrain them from repossessing and/or revoking the plaintiff's title.

There are several contentious issues in the plaint and the defendants on record. The triable issues have been identified and agreed upon. Documents have been agreed upon and exchanged. In essence, and the record shows as much, this case went through all pretrial procedures. In fact, on several occasions thereafter hearing dates were taken but, for reasons which are not clear on the record, the case has not been heard.

Then on 3<sup>rd</sup> December, 2008 when the case was listed for a hearing, the learned counsel for the plaintiff and 1<sup>st</sup> defendant proposed to file written submissions which were accepted by the court. Subsequently the second defendant agreed to that proposal.

With profound respect, the procedure adopted by counsel, and regrettably accepted by the court may be prejudicial to the parties herein.

No evidence has been adduced and no directions have been taken that, affidavit evidence is sufficient to determine the issues herein.

Be that as it may, it is my considered view that this case should go for full trial where parties must call evidence and if need be rely on the submissions which they have filed, prematurely.

I direct that counsel should now take hearing dates for the hearing of the main suit.

Orders accordingly.

*Dated, signed and delivered at Nairobi this 22<sup>nd</sup> day of October, 2009.*

**A. MBOGHOLI MSAGHA**

**JUDGE**