



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Civil Case 903 of 2004

1. Land and Environmental Law Division
2. Civil Practice and Procedure Order III Civil Procedure Rules. Leave to cease acting.
3. Subject of main suit: Land
Plot 491 and 492
Jamuhuri estate Phase 2
Now Nairobi/Block 63/782 and
Nairobi/Block 63/783
 - a) Double Allocation
of property by City Council of Nairobi to plaintiff, defendant 4 and 5.
 - b) City Council represented by D. Njogu & Co. Advocates.
 - c) Instructions withdrawn from D. Njogu on 15 November 2006 but advocate still on record.
4. Application 2 March 2008.
 - a) Cease from acting
 - b) No opposition to application.
5. Held: Application granted M/s D. Njogu be and is hereby given leave to cease
from acting.
6. Case law – Nil
7. Advocates:

J. Mungambi holding for J. Njogu & Co. Advocates for the 1st defendant/applicant – present

P. Makongo holding brief for K. Maina of Attorney General Chambers

M. Ngetcih instructed by P.M. Nyaga & Co. Advocates for the 4th and 5th defendant – present

M.D. Kibanga instructed by Muchiri Munga & Kibanga Co. Advocates for the plaintiff/respondent - present

ROBERT MATHENGE NJUNIA PLAINTIFF

VERSUS

CITY COUNCIL OF NAIROBI1ST DEFENDANT

THE CHIEF LAND REGISTRAR2ND DEFENDANT

THE HON. ATTORNEY GENERAL 3RD DEFENDANT

NICHOLAS HIUHU MURIITHI 4TH DEFENDANT

DOMININC ICHUGU GACHANJA 5TH DEFENDANT

RULING

APPLICATION TO CEASE ACTING AS ADVOCATE FOR 1ST DEFENDANT 2 MARCH 2008

I: BACKGROUND

1. The City Council of Nairobi (the 1st defendant herein) have been sued by Robert-Mathenge Njunia (the plaintiff herein) for double allocation of Plot 491 and 492 Jamuhuru estate Phase 2 now Nairobi/Block 63/782 and Nairobi/Berea63/783 which was allegedly allocated to the plaintiff and fraudulently to the 4 and 5 defendants.

2. The 1st defendant engaged the firm of M/s D. Njogu to represent them. They entered appearance on the 15 September 2004. They remained on record and on 4 March 2008 failed to attend court for hearing on 5 March 2008 the advocate – whose brief was held stated that they were no longer interested in this matter.

3. This court directed that under Order III Civil Procedure Rules once an advocate is on record for a party unless otherwise removed from record, the said advocate remains on record till the finalization of a suit. Dates for hearing of the main suit was taken for 8 May 2008 at 9.00 a.m, subject to the call over confirmation, for the parties.

4. In response, the said advocate D. Njogu filed this application of 2 March 2008, the subject matter of this ruling.

II: Application 2 March 2008

5. The application of 2 March 2008 prays that the firm of M/s D. Njogu ceases from acting for the 1st defendant. The reasons being that on 15 November 2006, the advocate not informed in writing that the City Court of Nairobi was withdrawing all this instructions from them. That this was due to disputed bill

of tax costs between the parties.

6. There was no opposition by the parties and the City Council of Nairobi being served did not attend court through a representative.

II: **Opinion**

7. The firm of D. Njogu have now made an application to cease from acting. This court hereby grants them that order. The court further orders that a notice of the courts orders be served upon the City Council of Nairobi and upon the respondents to this application (Order III r 6 Civil Procedure Rules).

8. The said D. Njogu & Co. Advocate are to pay costs to the respondents present in court because this application ought to have been made in 2006. The delay was inordinate.

DATED THIS 10TH DAY OF APRIL 2008 AT NAIROBI.

M.A. ANG'AWA

JUDGE

J. Mungambi holding brief for J. Njogu & Co. Advocates for the 1st defendant/applicant – present

P. Makongo holding brief for K. Maina instructed by Attorney General Chambers

M. Ngetcih instructed by P.M. Nyaga & Co. Advocates for the 4th and 5th defendant – present

M.D. Kibanga instructed by Muchiri Munga & Kibanga Co. Advocates for the plaintiff/respondent - present