



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

Misc. Civ. Appli. 146 of 2005

REPUBLIC OF KENYA.....APPLICANT

VERSUS

THE HON.ATTORNEY GENERAL.....1ST RESPONDENT

THE DISTRICT LAND REGISTRAR NYERI DISTRICT.....2ND RESPONDENT

JOSEPH KIHARA GITUI.....3RD RESPONDENT

MOSES KINAICHU MUGENYO.....4TH RESPONDENT

KIMOTHU HIUHU.....5TH RESPONDENT

KINYUA HIUHU.....6TH RESPONDENT

WANJWENI KANGERI.....7TH RESPONDENT

GIAKABURI/KANJIKERU SELF HELP GROUP.....8TH RESPONDENT

RULING

The Application dated 16/1/2008 seeks orders to set aside ex parte orders given on 24/1/2006 and issued on 27/1/2006. And that the District Land Registrar Nyeri District be ordered to re –open the public road of access running between land parcels number Magutu/Gatei/444 and 445. The application is based on 7 grounds set out in the application and on supporting affidavit of Moses Kinaichu Mugenyio 4th Respondent in the Misc. Application sworn on 16/1/2008 which shows that the orders sought to be set aside were granted after hearing application dated 23/1/2006 annexure MKM – 1.

By order of this court made on 13/11/2007, it was ordered that this suit be stayed pending the hearing and determination of Misc.96/2005. This application therefore should not be filed until the orders of stay are discharged or that case is determined. There is no evidence of the present status of Misc.No.96/2005 and therefore the court cannot presume.

I therefore dismiss this application. I however point out that there has been great delay in these matters filed by Mr. Gacheche hence Ex parte applicant is not entitled to costs for this application.

Dated this 30th May, 2008.

J. N. KHAMINWA

JUDGE

30/5/2008

Khaminwa – Judge

Njue – Clerk

Joseph Kihara Gitui present

Christopher present

Read in open court in their presence.

J. N. KHAMINWA

JUDGE