



## APPLICATION FOR ORDERS

1. ....
2. **That the defendant's, servants and/or any other party claiming through them be evicted from the suit premises since the boundaries have been marked by the District Land Registrar Narok District in conjunction with the District Surveyor.**
3. **That the Officer Commanding District (OCPD) Narok to provide the necessary and sufficient security to the Court Bailiff to be appointed to carry out the eviction.**
4. ....

Mr. Gekara went on to submit that the Respondent Commands Police Division and to that extent the order was ambiguous. For one to be cited for contempt of a court order the order must be specific and unambiguous and absolutely clear. Furthermore the OCPD does not command police stations which are under the command of Officer Commanding Police Station (OCS) and therefore he does not have command directly over police personnel under his command to utilize such, order should be directed to OCS and not OCPD.

But be it as it may it is unlawful to utilize the police in a civil action for the purpose of effecting or aiding private evictions or reinstatements. This was so stated by the Court of Appeal in the case of **KAMAU MUCUA V. THE RIPPLES LTD CA No. 186 of 1992.**

In that case a formal order has been extracted in which it was stated that police assistant may be enlisted to ensure that the plaintiff ie the Respondent is reinstated to the premises. On appeal the Court of Appeal had this to say:

**“Paragraph 4 of the formal order extracted on 22<sup>nd</sup> September 1992 says that police assistance may be enlisted to ensure that the plaintiff i.e the Respondent is reinstated to the premises.**

**It would be lawful to utilize the police in a civil action for the purposes of effecting or aiding private evictions or reinstatements.**

For the reasons stated above I am not persuaded that I should exercise my discretion in favour of the applicant. Accordingly I decline to grant orders in terms of prayer 1 of the Notice of Motion dated 8<sup>th</sup> October 2007 as prayed.

Application is dismissed with costs to the Respondent.

Dated and delivered at Nairobi this 25<sup>th</sup> day of July, 2008.

**J. L. A. OSIEMO**

**JUDGE**