

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Election Petition 165 of 2008

WYCLIFFE A. SWANYA

(Suing on his behalf and 16 others)PLAINTIFF

VERSUS

CITY COUNCIL OF NAIROBI1ST DEFENDANT

DAGO GROUND WORK SERVICES.....2ND DEFENDANT

R U L I N G

Before me is an application by the plaintiff seeking order to restrain the defendants from trespassing, constructing a sewer line, damaging, wasting and or interfering with the plaintiff's residential estate being **LR No.209/9852 Dam II Estate** Nairobi. In support of the application **Wycliffe Akuma Swanya** has sworn an affidavit giving grounds. He avers that the defendants through **DAGO GROUND WORK SERVICES** are constructing a sewer line through the suit property.

Both defendants have filed replying affidavits denying to have authorized or hired the said company known as **DAGO GROUND WORK SERVICES** to construct the said sewer line.

That being the position and there being no evidence to show that the said **DAGO GROUND WORK SERVICES** were authorized by the defendant to construct the said sewer line this application fails. Any application for injunctive order should be directed to the said **DAGO GROUND WORK SERVICES** and not the defendants.

Accordingly the plaintiff's application is dismissed with costs.

Dated at Nairobi this 26th day of September 2008.

J. L. A. OSIEMO

JUDGE