



REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA AT KERICHO**

**CR. MISC. APP. 9 OF 2008**

**DAVID TANUI LELEI ..... 1<sup>ST</sup> APPLICANT**

**STANDLEY TANUI LELEI .....2<sup>ND</sup> APPLICANT**

**VERSUS**

**THE HON. ATTORNEY GENERAL ..... 1<sup>ST</sup> RESPONDENT**

**THE KIPKELION OFFICER COMMANDING STATION . 2<sup>ND</sup> RESPONDENT**

**THE KIPKELION OFFICER IN CHARGE OF CRIME ...3<sup>RD</sup> RESPONDENT**

**RULING**

**ANTICIPATORY BAIL**

**I: Background**

1. Applicant 1 and 2 are brothers. They come from a large family having three houses. Their father Lelei Mutai is now aged 78 years old. According to the applicant 1 and 2, he is incapacitated due to his old age.
2. The 1<sup>st</sup> house, consisting of one Esther Chelangat Mutai is alleged to have quarreled or fallen out of favor with the husband. She left her matrimonial home but due circumstances not mentioned herein was forced to return to her husbands' land with her children. Likewise the 2<sup>nd</sup> house consisting of Ann Mutai, who is mother to applicant 1 and 2 quarreled and or fell out with her husband Lelei Mutai. The third wife Rudia Mutai is now in control of a vast 300 acres.
3. Believing that she is out to evict the applicant 1 and 2 from the land, the said applicants came to Court for anticipatory bail because they believed that the OCS Kipkelion Police station intention is to have them arrested was very eminent.
4. They filed this application whereby they prayed that this Court grants them anticipatory bail. The two rely on the affidavit of David Tanui Lelei. They also rely on previous proceedings between the 1<sup>st</sup> house and their father. Their house i.e. 2<sup>nd</sup> house and their father.

**Application 9<sup>th</sup> October, 2008**

5. The fears of being arrested and or evicted from the 300 acres of land is and or appears eminent for the

two applicants. I accordingly grant the application noting that this is really a family dispute.

6. The Court grants the following orders.

- i) That this Court arrests the 1 and 2 applicants and accordingly give them bail in anticipation of arrest.
- ii) That the two applicants do avail themselves to the police when called upon whilst on bail of Kshs. 100,000/= free bond each.
- iii) That these orders be directed to the 1, 2 and 3 respondents herein.

**DATED** this 20<sup>th</sup> day of November, 2008 at **Kericho**.

**M.A. ANG'AWA**

**JUDGE**

**Advocates**

W.K. Ngetich instructed by M/S Wheldon Ngetich & Co. advocates for the 1<sup>st</sup> and 2<sup>nd</sup> Applicants

R.K. Koech instructed by the Attorney General for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents