



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA**

Civil Suit 183 of 2006

ROY MACHARIA NDUATI1ST PLAINTIFF

DOROTHY MAY WATTS.....2ND PLAINTIFF

VERSUS

MWAKASA LTD. T/A SHREE HOMES1ST DEFENDANT

AFRICAN SAFARI CLUB LTD.2ND DEFENDANT

MUNICIPAL COUNCIL OF MOMBASA3RD DEFENDANT

RULING ON DIRECTIONS

The plaintiffs herein, namely Roy Macharia Nduati and Dorothy May Watts initially named Mwakasa Ltd t/a Shree Homes, African Safari Club Limited and Municipal Council of Mombasa as 1st, 2nd and 3rd Defendants in this suit to seek for remedies in law to have access to L.R. No. 4732 and L.R. NO. MN/I5905 by virtue of their continuous use and enjoyment of the easement. Interim orders of injunction were given when the parties appeared before this court exparte. It later emerged that upon conducting a search at the Lands Registry that the alleged access to the plaintiffs' residences were interfered with by four parcels of land as opposed to the two named in the plaint. This prompted the plaintiff to seek for leave to amend the plaint to include the other parties who had not been named and of course to strike out the names of those who were wrongly joined to the suit. The process of striking out Mwakasa Ltd t/a Shree Homes, was done on 13/12/2006. When the application dated 13/9/2006 came up for hearing, advocates appearing for the newly added parties were of the view that directions be given on the way forward in the matter because they filed their responses in view of the newspaper advertisement of the existence of the case.

Without taking much time, I am of the view that the remaining issues raised in the Chamber Summons dated 13.9.2006 can easily be sorted out if all the parties named herein are served with the application and then a hearing date on priority be given at the registry. In the light of that I direct the plaintiffs to have the Chamber Summons dated 13/9/2006 served upon all the parties named within 14 days. The parties so served should file their responses three days before the hearing date. In the meantime the status quo obtaining now pursuant to the interim orders be maintained until then.

Dated and delivered at Mombasa this 21st day of February 2007.

J.K. SERGON

J U D G E

In open court in the presence of Mr. Tindi for the plaintiff/applicant.

Ouma for 1st Defendant

Kinyua for the 2nd Defendant

N/A for 3rd Defendant.