



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT BUNGOMA**  
**Civil Suit 138 of 2004**

**SAMWEL MULATI LUKORITO    ::::::::::::::::::::    PLAINTIFF**

**VS**

**BENARD LUKORITO WAFULA    ::::::::::::::::::::    DEFENDANT**

**RULING**

I had perused this application earlier along with the affidavit and the annexures thereto. I have now heard counsel for the aggrieved party. I note that the aggrieved party has been the registered owner of the plot in question for almost 10 years. He should not have been injuncted from using the said plot unheard. Section 80 of the CPA allows him to come to court for a review if he is aggrieved. Accordingly, I am satisfied after considering the material before me along with counsel's submission that the aggrieved party's quiet possession and use of his land should not be interfered with without him being heard.

Accordingly, I find that his application has merit. I allow the same and order that the earlier order granted by the court on 8.3.2006 be and is hereby reviewed o exclude parcel NO. BUNGOMA/NAITIRI/625 which belongs to the aggrieved party herein.

The injunction order affecting that particular parcel is hereby lifted. Aggrieved party to also get costs of this application.

**W. KARANJA**

**JUDGE**

**23/3/2007**

**COURT:** Since Mr. Waswa for the Plaintiff was duly served with the application but failed to appear in court today, this order will remain in force until the suit is heard and determined.

This order be served on the plaintiff's counsel.

**W. KARANJA**

**JUDGE**

**23/3/2007**