



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 933 of 2002**

AUGUSTINE KIMENTERIA NTHIGAPLAINTIFF

VERSUS

DAVID NDUBI STOWERDEFENDANT

RULING

1. Land and Environmental Law Division

2. Subject of main suit: Land

a) Double allocation to plaintiff and defendant separately of Nairobi Block 63/579

- 0.0189 hectares Lease 99 years from 1 January 1968

b) Injunction orders by Waki J 30 July 2003 against both parties

from either constructing any building or structures on No.3 on Nairobi Block 63/579 Jamuhuri Phase II till main suit

c) 90 days given to ensure parties do not go to sleep.

3. The 90 days expired

a) Application to extend the said order (10 May 2005)

b) Opposed by respondent

4. Held:

That the said orders be extended till finalization of the main suit.

5. Case law – Nil

6. Advocates

D. Oyasi for Oyasi & Co. Advocates for the plaintiff/applicant – present

M. Nyangau for Masore Nyangau & Co. Advocates for the defendant/respondent – present

I: Background

1. The main suit herein concerns land. The City Council of Nairobi appears to have double allocated land to both the plaintiff and defendant being Nairobi Block 63/579 measuring 0.0189 hectares. It has a lease of 99 years as from 1 January 1968.

2. Waki J issued orders on 30 July 2003 restraining both the plaintiff and defendants respectively from dealing with the suit property. To ensure that parties do not go to sleep this was extended for 90 days only.

3. The plaintiff did go to sleep and the orders have since lapsed. The application before me dated 10 May 2007 seeks extension of those orders.

4. The respondents oppose this.

II: Finding

5. I find that the said orders be extended till the determination of this suit. Each party will be at liberty to apply.

6. I award the costs of this application to the respondent/defendant.

Dated this 31st day of July 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

D. Oyasi for Oyasi & Co. Advocates for the plaintiff/applicant - present

M. Nyangau for Masore Nyangau & Co. Advocates for the defendant/respondent - present