



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 1177 of 2005**

**GERLAND W MAHINDA .....1<sup>ST</sup> PLAINTIFF**

**GILBERT G. MAHINDA .....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**NELSON BICHANGE.....DEFENDANT**

**RULING**

I: Background of application seeking orders of injunction dated 28.9.05

1. This suit is controversial. The plaintiff 1 and 2 herein purchased a plot number 164 Ongata Rongai. This I believe must be from the council of the area. I say so as the respondent/defendant had disclosed this to court.
2. The year of purchase of the property was 20 April 1980 from one Bernard P. Roimen now deceased).
3. Parties have heard related suit filed earlier being Hccc1012/92 and Hccc399/93 at one point the latter suit reached the court of Appeal being CA63/93.
4. When the matters came before me for hearing I did ask the advocate for the applicant whether there were any changes that had occurred. This is because two years have since lapsed.
5. The advocate for the applicant informed the court he is not aware what occurred on the ground and gave the impression there was no new development.
6. In reply the advocate for the respondent argued that in effect a lot has occurred. The land had been sub-divided. The head lease has not been signed by other 3<sup>rd</sup> parties.
7. The parties have other pending suits involving the same subject matter.

II: Application 28.9.2006.

8. Should an injunction issue herein?

9. The probability of success of this suit is what determines whether a suit should be granted an injunction or not?

10. As abundant precaution I would issue an injunction on condition that the original suit land Plot No.164 Ongata Rongai till determination of the main suit.

11. If per chance this original plot No. 164 is not in existence the orders before court lapses.

12. That advocate for plaintiff/applicant was mandated to find out this information.

13. I award costs to be in the cause.

Dated this 31<sup>st</sup> day of July 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

Otieno Weda for Odhiabmo & Weda Advocates for the defendant/respondent- present

M.P. Kinyanjui for Machira & Co. Advocates for the plaintiff/applicant - present