



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

**Civil Case 2166 of 2007**

1. Land and Environmental Law Division
2. Subject of main suit – land ownership
3. Application of 27 September 2007
  - i) Injunction to issue against 1 and 2 defendants for taking possession of suit land and constructing on it.
  - ii) 2<sup>nd</sup> defendant claims ownership but the plaintiff hold title of lease
  - iii) On reporting to the police, the police confiscated title document.
4. No appearance from any of 3 -4 defendants though served
5. Hearing of application under Order IXb r 3 Civil Procedure Rules
6. Held:
  - i) Injunction to issue restraining defendant 1 and 2 only from taking possession of land till main suit is heard.
7. Case law - Nil
8. Advocate:

E.K. Mutua for E.K Mutua & Co. advocates for the plaintiff/applicant – present

1. Flankline Kamau )
2. Patrick N. Kariuki )
3. Hon. Attorney General ) The defendants/respondents – all served
4. Commissioner of Lands ) and absent

**LIAKATALI SHAH .....APPLICANT**

**VERSUS**

**FRANKLINE KAMATHI KAMAU .....1<sup>ST</sup> DEFENDANT**

**PATRICK NJOGU KARIUKI ..... 2<sup>ND</sup> DEFENANT**

**THE COMMISSIONER OF LANDS .....3<sup>RD</sup> DEFENDANT**

**NAIROBI CITY COUCNIL ..... 4<sup>TH</sup> DEFENDANT**

**THE HON. ATTORNEY GENERAL ..... 5<sup>TH</sup> DEFENDANT**

**RULING**

I: Application for injunction to restrain defendant 1 and 2 from taking possession of suit land and Nairobi Block 37/85 issued on 17.5.07

A: Background of application

1. The subject of the main suit happens to be land LR No. Nairobi/Block 37/85. The plaintiff brought the suit land by way of a sale agreement dated 8 March 2007 from the 1<sup>st</sup> defendant. He paid a consideration of Ksh.4.5 million.
2. On 21 September the 2<sup>nd</sup> defendant moved onto the land to begin to construct. The plaintiffs went immediately to report to the CID police. He produced his proof ownership being the title lease. He was informed herein that his document may be a forgery and was under investigation.
3. The document was accordingly confiscated.
4. The plaintiff filed suit on 27 September 2007 and sought an injunction against the 1 and 2 defendant only.
5. The parties on being served have failed to appear to court.
6. This court proceeded with the hearing of the application under order IXb r3 (a) Civil Procedure Rules.

II: Finding

7. Should an injunction issue?

Most certainly the plaintiff shows that he holds title dated May 2007. That he is the rightful owner of the property unless otherwise proved.

8. I hereby grant the application for an injunction. I order that the 1 and 2 defendants do be restrained from constructing or entering the suit premises. I further order that an injunction do issue against the 1 and 2 defendant till the finalization of the suit.

9. That all parties herein be served until summons to enter appearance within 15 days of the issuance by the deputy registrar of such summons . That parties on putting in their defences and on compliance with pre trial to accordingly proceed to trial of the main suit.

10. The costs to be awarded to the plaintiff paid by 1 and 2<sup>nd</sup> defendant for the application before court.

11. Dated this 11<sup>th</sup> day of October 2007 at Nairobi.

**M.A. ANG'AWA**

**JUDGE**

E.K. Mutua for E.K Mutua & Co. advocates for the plaintiff/applicant – present

1. Flankline Kamau )
2. Patrick N. Kariuki )
3. Hon. Attorney General ) The defendants/respondents – all served
4. Commissioner of Lands ) and absent
5. Nairobi City Council )