



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 1335 of 2003

1. Land and Environmental Law Division
2. Civil Practice and Procedure
- i) Replying affidavit filed to answer grounds of opposition instead of a further replying affidavit.

By applicant

- ii) That the said affidavits be struck out

3. Held.

- i) The applicant under impression replying to grounds duly field instead fo replying.

Held that the affidavit to remain on record

- ii) Respondent be given leave to file further affidavit if need be

4. Case law – Nil

5. Advocates:

R. Kinuthia for Rumba Kinuthia & Co. Advocates for the plaintiff/applicant – present

M.K. Chebii of M.K. Chebii & Co. Advocates for the defendant/respondent-present

EDWARD K. KIMUHU

GEORG E MURUA MUINANIA

PETER NDONYE NGUGI

JOHN GTHUNGA

JANE NDUTA MURIUKI

MONICA WANGECHI

LYDIA WANJIRU KANGETHE

EDITH GATHONI KARIUKI

JOHN NGUNJIRI WAIGWA

ISAKA KIMANI

JOHN KIMONI KINYENJE

MERCY MUTHONI

MARY WAIRIMU KAMIRI

DOUGLAS GITHIAKA MBUGUA

MERCY NYAMBURUA KARANJA

GRACE WAMBUI MBURU

LABAN GICHAANA NJOROGE

STEPHEN NDUNGU NGUREPLAINTIFFS

VERSUS

WERU WA MUTHURWA INVESTMENTS CO. LTD...1ST DEFENDANT

THIKA RIVER ESTATE LTD2ND DEFENDANT

P. MBURU NGUGI, NG'ANGA NYOIKE HOSEA

M. MWIKA

T/A KARAGITA SELF HELP MIXED GROUP.....3RD DEFENDANT

CHIEF LAND REGISTRAR4TH DEFENDANT

RULING NO.4

1. There is an application before me to expurge from the records herein a replying affidavit filed to court.

2. The applicant 3rd defendant filed an application to strike out the plaint and the 1st defendants defence. That by consent of 16.10.07 the parties agreed to effectively file an affidavit in reply and leave given to applicant to file a further affidavit. Instead the two respondents 1st defendants and plaintiff filed grounds of opposition but not replying affidavit.

The applicant filed two further reply. The respondents states he should not have done so. The applicant state he assumed their grounds was a reply.

3) I decline to expurge the further reply from the record but I would give the respondents leave to file further affidavit. The grounds of objection filed I note was a mixture of facts and not purely law.

DATED THIS 14TH DAY OF NOVEMBER 2007.

M.A. ANG'AWA

JUDGE

R. Kinuthia for Rumba Kinuthia & Co. Advocates for the plaintiff/applicant – present

M.K. Chebii of M.K. Chebii & Co. Advocates for the defendant/respondent-present