



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

CIVIL MISCELLANEOUS 146 OF 2005

IN THE MATTER OF APPLICATION FOR JUDICIAL REVIEW

AND

**IN THE MATTER OF THE LETTER BY DISTRICT LAND REGISTRAR NYERI DISTRICT
PURPORTING TO CREATE AN ACCESS ROAD ON LAND PARCELS NO.
MAGUTU/GATEI/444 AND 445**

AND

**IN THE MATTER OF A GROUP CALLING ITSELF THE GIAKABURI/KANJIKERU SELF
HELP GROUP**

AND

IN THE MATTER OF LAND PARCELS NUMBER MAGUTU/GATEI/444 & 445 AND

**IN THE MATTER OF AN APPLICATION FOR MANDAMUS, CERTIORARI &
PROHIBITION**

REPUBLIC.....APPLICANT

VERSUS

THE HON. ATTORNEY GENERAL.....1ST RESPONDENT

THE DISTRICT LAND REGISTRAR NYERI DISTRICT...2ND RESPONDENT

JOSEPH KIHARA GITUI.....3RD RESPONDENT

MOSES KINAICHU MUGENYO.....4TH RESPONDENT

KIMOTHO HIUHU.....5TH RESPONDENT

KINYUA HIUHU.....6TH RESPONDENT

WANJWENI KANGERI.....7TH RESPONDENT

RULING

Application dated 1/8/2006 seeks 6 orders. The first for consolidation of this suit and another High Court No.96 of 2005 both suits are said to be between same parties and that subject matter is the same. These proceedings are state proceedings and the procedure applicable is that set out under Order 53 Civil Procedure Rules. There is no room for consolidation in these proceedings. However I order that the first in time be heard first while the second is stayed in the meantime.

It is therefore ordered that this suit ***No. Civil Misc. 146 of 2005*** be stayed while Misc. 96 of 2005 do proceed to hearing and determination. This order covers prayer 1, 4, & 6 on prayer 2, 3.

I have perused the application and supporting affidavit. I do not find the acts of contempt complained of proved and in view of the Replying Affidavit of the alleged contemnors I am not satisfied that breach of court order is proved.

I therefore do not allow the application in respect of prayers on contempt. The same are dismissed with costs to the Respondents.

It is so ordered.

Dated this 13th November, 2007.

J. N. KHAMINWA

JUDGE