

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKURU

Misc Appli 123 Of 2006

THE DISTRICT COMMISSIONER, NAKURU DISTRICT.....RESPONDENT

VERSUS

JOSPHAT KARIUKI

SIMON NDUNGU

PETER GICHANGIAPPLICANTS

RULING

I have perused the application for leave filed by the applicants in this case. The applicants are seeking judicial review orders of prohibition against the respondent, the District Commissioner, Nakuru. Having examined the complaint made against the District Commissioner, I am not persuaded that the District Commissioner was or is acting in a quasi-judicial capacity to enable this court to intervene. I have read the authorities supplied to this court by the applicants which give instances under which the court can prohibit administrative officials from taking certain actions. It is doubtful if the said authorities are applicable in the circumstances of this case. However so that the issues raised by the applicant may be ventilated, whatever its merits, I hereby grant the applicants leave to file for orders of judicial review as prayed in paragraph (a) of the application. The said leave shall operate to stay the respondent from dealing with the suit parcel of land pending the hearing and determination of the substantive motion. The applicants shall file a substantive motion within twenty one (21) days of today's date. The costs of this application shall abide the outcome of the substantive motion.

DATED at NAKURU this 20th day of March 2006.

L. KIMARU

JUDGE