



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

**Civil Case 109 of 2006**

**SAMUEL M. WAHOME**

**PETER K. MBUGUA**

**SILAS E. NJERU**

**(SUING AS CHAIRMAN, SECRETARY & TREASURER RESPECTIVELY OF CLAYWORKS WELFARE ASSOCIATION – KASARANI AND ON BEHALF OF THEMSELVES & MEMBES OF THE SAID ASSOCIATION.....**  
**PLAINTIFFS**

**VERSUS**

**HARRIS GIGI E.A. LTD.....1<sup>ST</sup>**  
**DEFENDANT**

**CLAYWORKS LTD.....2<sup>ND</sup>**  
**DEFENDANT**

**CLAYCITY DEVELOPERS LTD.....3<sup>RD</sup>**  
**DEFENDANT**

**DISTRICT OFFICER, KASARANI DIVISION.....4<sup>TH</sup>**  
**DEFENDANT**

**RULING**

The plaintiffs are the registered proprietors of that parcel of land known as LR NO.54/34 while the defendants are the registered proprietors of that parcel of land known as LR NO. 54/32.

The defendants intend to construct a road of access to their property. The plaintiffs aver that this could be in contravention of various statutory provisions of the various Acts of Parliament that is to say:

- i) Lakes & Rivers Act Cap 409 Laws of Kenya
- ii) Electric Supply Lines Act Cap 315 Laws of Kenya

- iii) Water Act Cap 372 Laws of Kenya
- iv) Government Lands Act Cap 280 Laws of Kenya
- v) Registration of Titles Act Cap 281 Laws of Kenya
- vi) Land titles Act Cap 282 Laws of Kenya
- vii) Land Consolidation Act Cap 283 Laws of Kenya
- viii) Way Leaves Act Cap 292 Laws of Kenya
- ix) Survey Act Cap 299 Laws of Kenya
- x) Local Government Act Cap 265 Laws of Kenya
- xi) Land Planning Act Cap 303 Laws of Kenya
- xii) Housing Act Cap 117 Laws of Kenya
- xiii) Public Order Act Cap 56 Laws of Kenya
- xiv) The constitution among other several Act

The plaintiff avers that he is apprehensive the defendants actions are tantamount to depriving the plaintiffs the rights of peaceful and quiet enjoyment of their property and those provided by common law, that in the absence of the defendants want of compliance with the statutory and legal requirements their actions would amount to trespass upon the plaintiff's property LR NO. 54/32.

Simultaneously with the plaint the plaintiff brought this application under Certificate of Urgency seeking temporary injunctive orders to restrain the defendants from continuing to carry out further works on the said access road to their premises. The application is supported by sworn affidavit of the applicant in which he avers on similar facts as those contained in the plaint.

In the first place the various Acts of Parliament are enforced by various arms of the Government and the plaintiffs lack locus standi to enforce them. Secondly as the applicant avers that the respondents are constructing road of access to their property known as LR NO.54/32, the applicant has not shown how they have trespassed or how the respondents have prevented them from peaceful and quiet enjoyment of their property LR NO. 54/34.

The court has no jurisdiction to restrain an individual from constructing a road of access unless by so doing he trespasses on another persons private or contravenes any provisions of any Act of Parliament.

For the above reason, the applicant's application is dismissed.

Dated and delivered at Nairobi this 8<sup>th</sup> day of March 2006.

**J.L.A. OSIEMO**

**JUDGE**