



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT EMBU**  
**Civil Case 22 of 2001**

NGARARI M'THANI.....PLAINTIFF

**VERSUS**

EDITA WAMBUGU.....1<sup>ST</sup> DEFENDANT

WAMAI NJENGA.....2<sup>ND</sup> DEFENDANT

MWANIKI NYAGA.....3<sup>RD</sup> DEFENDANT

PATRICK MUGO NYAGA.....4<sup>TH</sup> DEFENDANT

RUTH S.K. NYAGA.....5<sup>TH</sup> DEFENDANT

**RULING**

This suit is part heard by Hon. Justice I. Lenaola who is no longer in this station.

However he has undertaken to finalize the hearing when he visits this court soon to finalize his other part-heard matters.

In the interim the applicant approached this court for orders under certificate of urgency and an interim orders were granted on 18/1/2006.

The inter-parties was heard and parties argued their cases. The applicant pleads that they have good chances of success and fraud is pleaded and if the constructions continues or is completed it is detrimental to the applicants interests. The Respondent opposes the application on the ground that the land in dispute was sold by deceased's father and this is not disclosed by the Applicant.

My view is that no party is entitled to take law into their own hands. The parties are already in court and an issue of that nature should be argued in court at the trial.

In my view it is contempt of court and an abuse of court process to decide for any party to take decisions on issues which they have placed in the hands of the court to decide.

Another Judge is still seized of this matter. In the interim pending his finalization of the trial I allow the application and grant orders as prayed. Costs shall be in the cause.

Dated this 11<sup>th</sup> May 2006.

**J.K. KHAMINWA**

**JUDGE**