

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU
CIVIL APPEAL 30 OF 2003

MUGO NJORE)
TERESIA WANGECHI MUGO)
JEMIMA WANJIRU MUGO)
PETER MUTHII MUGO)
KARIITHI MUGO)..... APPELLANTS/APPLICANTS
VERSUS
MIANO NJORERESPONDENT

RULING

1. This is an Application brought under Order XLI Rule 4(1) of the Civil Procedure Rules. The Applicant seeks orders that a temporary injunction do issue to **“restrain the Respondent by himself, his servants, agents and/or anybody claiming through him from evicting or otherwise interfering with the Applicant’s possession of title No. L.R. No. Mutira/Kathare/842 until the Appeal is determined.”**
2. I note that the Application is unopposed as no response has been filed by the Respondent though served. From the Supporting Affidavit the registered owners of the suit land are the 2nd and 3rd Appellants/Applicants but on 28.1.2002, the PM’s Court in Kerugoya PMCC No. 90 of 2001 Ordered that the land be transferred to the Respondent. The Applicants then filed the Appeal.
3. In the absence of any evidence to the contrary, it would be proper to maintain the status of the parties until the Appeal is heard. The Appellants are in possession and on a balance of convenience, their eviction would be prejudicial to them. The Respondent has said nothing and I cannot assume that any prejudice would be caused to him.
4. In the circumstances, I shall grant Orders in terms of prayer 1 of the Application dated 19.1.2004. As the Respondent has not appeared, I shall make no Orders as to costs .

Orders accordingly.

Read in open Court this 26th day of January 2005.

I. LENAOLA
JUDGE