

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Misc Civil Appli 345 of 2004

REPUBLIC.....APPLICANT

VERSUS

THE DISTRICT WORKS OFFICER

MINISTRY OF ROADS, PUBLIC WORKS AND HOUSING, NAKURU

ENGINEER C. M. MUKUVA.....RESPONDENTS

EX-PARTE

MARK NGANGA GITHIRU

RULING

The application has been brought under Notice of Motion under **Order LIII Rule 3 (1) and (2)** Civil Procedure Rules, **Section 8 (2), 9 (1) (b)** of the Law Reform Act, Chapter 26, Laws of Kenya. The application seeks the following Orders:

(1) THAT *this Honourable Court be pleased to issue an Order of Certiorari to bring before this Court and quash the decision of Public Works Officer, Nakuru, Engineer C. M. MUKUVA contained in a letter dated 5th July, 2004 to the subject herein being MARK NGANGA GITHIRU demanding for rent or in default eviction thereof in respect of NAKURU MUNICIPALITY BLOCK 12/107.*

(2) THAT *this Honourable Court be pleased to grant an order of prohibition prohibiting/restraining the Public Works Officer, Nakuru, Engineer C. M. MUKUVA from enforcing the decision contained in his letter dated 5th July, 2004 to the subject demanding for rent and/or in default eviction thereof in respect of NAKURU MUNICIPALITY BLOCK 12/107.*

The application has been supported by the grounds on the surface of the same and the supporting affidavit of Mark Ng'ang'a Githiru. Though the Attorney-General was duly served on 8th December, 2004, he never turned up nor send any of his representative. Besides the above, the Attorney-General never filed any grounds of opposition nor replying affidavit. In effect, the Attorney-General has not challenged nor controverted the application on record. Apparently, the Certificate of Lease is in favour of the Applicant. This Court has not been shown any valid cancellation of the same by the Respondent.

In view of the above, I hereby grant Prayers No. 1 and 2. Costs to the Applicant in any event.

Those are the Orders of the Court.

MUGA APONDI

JUDGE

Ruling read, signed and delivered in open Court in the presence of Mr. Odhiambo.

MUGA APONDI

JUDGE

14TH JULY, 2005