

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MOMBASA

Civil Case 541 of 2001

ROSE WANJIRU RUGENDOPLAINTIFF

VERSUS

M/S NJIRI'S HARDWARE LTD & ANOR.DEFENDANT

R U L I N G

There is before court application dated 24/10/2001 seeking mandatory injunction for the eviction of Defendants from piece of land know as LR 1956/803 VOI Township as in terms of prayer 2 of the application.

Another prayer is made in terms of per 3 thereof. It is based on the ground that the plaintiff is the registered owner of the said plot No. 1956/803 Voi Township and that the Defendants have trespassed thereon.

The application is supported by affidavit of the Plaintiff. She has exhibited a Grant by President to herself marked Exhibit "A: she has also exhibited photographs showing the constructions which she is complaining about.

This application was in this court for argument on 14/6/2005. Mr. Mutugi advocate for Plaintiff argued the matter for the applicant although the hearing date was fixed in court in the presence of Mr. Ngaira holding brief for Mr. Odongo, no one appeared on 14/6/05 to respond in opposition.

I have examined the application and supporting affidavits with the annexures. I am convinced that the Applicant has a right to orders. She seeks while the suit is pending, her right to the land and buildings are clearly established under the law. The defendants stand as gathered in their affidavit raises matters that can only be proved after a full hearing. For the time being the balance of convenience tilts in favour of the Applicant. It being a matter involving land title to the land is guaranteed under the law.

I therefore allow application and grant orders under the prayers sought under prayer numbered 2 and 3 with costs in the cause.

Delivered and dated at Mombasa this 15th day of December 2005.

J. KHAMINWA

J U D G E

Notices sent for Ruling .

15/12/05

Ruling read in open court in their absence.

KHAMINWA, J