

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL CASE 12 OF 2004 (OS)

IN THE MATER OF LIMITATION OF ACTS (CAP. 22)

LAWS OF KENYA

BETWEEN

JUMAA ABDALLA MWAZURI & OTHERSPLAINTIFFS

AND

1.MWARUMA HOLDINGS LIMITED

2.COMMISSIONER OF LANDS..... DEFENDANTS

R U L I N G

This application made under Order XLI Rule 4 Civil Procedure Rules. It is sought to vacate or stay court order made on 26.4.2004 and to maintain status quo ante. This court has visited the land in dispute and has made a ruling that each party continue to occupy pieces of land as then occupied that is the status quo ante. The applicant has filed an appeal against that order. To stop the proceedings in this matter in my view is to prolong the dispute which is bitterly fought by both parties. Although the defendant is the company, its director is the one who is filled with bitterness. It will save no purposes to prolong the time the matter will be finalized. The appeal is only as to whether injunction made should have been granted or not and I see no reason why the proceedings should not proceed meanwhile. If appeal is successful the injunction will be discharged but the suit will have to proceed to hearing. In the circumstances I see no merit in the application and I dismiss sit with costs.

Dated this 25th day of June, 2004.

J. KHAMINWA

JUDGE

Mrs. Sheriff.

Mr. S.M. Kimani – present

Ruling read in his presence.

J. KHAMINWA

JUDGE

25.6.04