



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL APPEAL NO. 35 OF 2002

GODFREY KIIHIKA APPELLANT

VERSUS

DANIEL ODHIAMBO DUNDIRESPONDENT

RULING

This application dated 5th and filed in court on 6th February, 2002 is for stay of execution of the ruling and orders of the Rent Restriction Tribunal made on 1st February, 2002 in Rent Restriction case No. 21 of 2002 at Nairobi until the final determination of the appeal lodged herein.

The grounds on which the application is based are stated on the body of the application and also in the supporting affidavit.

Though full proceedings are not on this file it would appear the applicant had evicted the respondent from his premises for whatever reason.

He filed an application under certificate of urgency to apply for reinstatement into the premises.

When the matter came up before the Tribunal, the appellant could not explain how the tenancy between him and the respondent came to an end.

The appellants' worry was that if an order for reinstatement was made it would disturb the new tenant already in the premises; otherwise the respondent had established that the tenancy had been wrongfully and unlawfully terminated.

The Chairman of the tribunal made the order for reinstatement of the respondent into the premises, hence the present application.

It was wrong for the appellant to evict the respondent from the suit premises to put in another tenant.

During the hearing of the application in the Tribunal, the applicant never complained against the respondent for breaching any of the terms of the tenancy.

When he evicted the respondent from the suit premises he had no regard for the law and did not seek its aid.

But now the same law has caught up with him, the appellant realizes it can come to his aid. On what basis?

The ruling of the Chairman of the tribunal does not indicate anything which could favour the appellant on

appeal.

He appears to have raised no issue at the Tribunal at all worth the court's consideration?

Contrary to his assertion that the appeal has high chances of success, I do not see such high chances.

This is one application I am disinclined to grant and I dismiss the same with costs.

Delivered this 25th day of February, 2002.

D.K.S AGANYANYA

JUDGE