



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL CASE NO. 64 OF 2002**

**CHRISTOPHER KIBET .....PLAINTIFF**

**VERSUS**

**NAIROBI CITY COUNCIL.....DEFENDANT**

**RULING**

This is the plaintiff's application to restrain the Nairobi City Council – Respondent from evicting demolishing or otherwise interfering with plaintiffs quite occupation and use of their respective house situate at Old Sewage Plot in Eastleigh South Nairobi.

The application is supported by the affidavit of Christopher Kibet and Oundo Onguambe.

They say that the plaintiffs are employees of Nairobi City Council and that they have been staying in the respective residential houses owed by respondent for over 10 years. They aver inter alia that people have got to the plot where the houses are situated to lay beacons saying that the houses have been allocated to them. Applicant further say that the plot has never been allocated by the respondent in Council Annual General meetings.

Mr. Tom Odongo, the Assistant Director City Planning has filed a replying affidavit.

He denies that Nairobi City council plans to have the plaintiffs premises demolished. He also denies that the Nairobi city council has allocated the premises to individuals.

The replying affidavit should have been sworn by the Town Clerk. Mr. Tom Odongo does not say that he has done personal investigations into the plaintiffs complaint. Plaintiff have shown minutes of the Council showing that there has been previous illegal allocations. Mr. Kibet and Mr. Oundo Onguambe depose that in 1999 respondent allocated the premises where plaintiffs were living and plaintiffs were relocated to the present houses.

The Nairobi City council speaks through the Town Clerk and the Town Clerk has not denied that unknown people have claimed to have been allocated the premises and gone to the premises to place beacons. Considering the previous incident where the plaintiffs premises were demolished after the illegal allocation of the houses I am satisfied that plaintiffs have shown that there is the land in which their houses are located is in real danger of alienation and that it just and equitable to protect their interest.

Experience has shown that when an interlocutory injunction is granted in a suit of this kind, plaintiff's case interest to prosecute the suit. That being the case the interlocutory injunction should be granted only for a reasonable period within which plaintiffs should take steps to prosecute the suit.

For the foregoing reasons I grant a temporary injunction in terms of prayer 2 of the application for 6

months only.

**Costs in the cause.**

**E. M. Githinji**

**Judge**

**2.30p.m**

**Mr. Okach present**

**Mr. Osore absent**