

IN THE HIGH COURT OF KENYA

CIVIL CASE NO. 1493 OF 1999

DAVID M. KIBINGE & 2 OTHERS.....PLAINTIFF

VERSUS

MUNICIPAL COUNCIL OF THIKA.....DEFENDANT

R U L I N G

There was confusion and or breakdown in communication in this matter resulting in the adverse orders complained of by the defendant applicant. An order obtained ex-parte is not ordinarily on merit as the other part has not advanced its case. If the plaintiffs have a good case they should not fear the setting aside of the orders obtained ex-parte so that the application may be heard inter-partes. In view of the foregoing, the orders made on 15th December, 1999 are hereby set aside. Costs shall be in the cause.

Orders accordingly.

Dated and delivered at Nairobi this 8th day of March, 2000

A. MBOGHOLI MSAGHA

JUDGE