



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI LAW COURTS)**  
**CIVIL CASE 1355 OF 99**

**JOAN NDUTA KARANJA BASHI.....PLAINTIFF**

**V**

**THINDIGUA LTD.....DEFENDANT**

**RULING**

This application seeks to have the defendant's defence struck out and judgment entered for the plaintiff as prayed in the plaint. Considering that the suit is for vacant possession of a piece of land, it is obvious that the application is misconceived. In my view, there is no provision in the Civil Procedure Rules for summary judgment in a case of this nature. Apart from the foregoing, there is considerable confusion as to what the dispute is all about. It appears from the pleadings and also from submissions by both learned counsels that two parcels of land are involved in this matter namely L. R. No. 76/396 and L. R. No. 76/397.

There is therefore a very strong possibility that either or both parties is/are confused as to what piece of land they occupy on the ground. There are also serious allegations that the advocates who purported to represent the defendant in the sale of the property namely Onesmus Githinji and Company Advocates had no instructions to act for the defendant. Given all those complications, it becomes more than clear that this is not a matter that can be disposed of through affidavit evidence. A lot more evidence than what has been presented to the court is required to establish who the rightful owner of property is. Some of that evidence will have to include certified documents from the relevant Land Registry indicating the current status of the property/properties.

It may also be necessary to have the evidence of one Mr. Daniel Musyoka of Onesmus Githinji & Co. Advocates, to testify on the matter. In view of what is stated above, the application must fail. According the application is hereby dismissed. Given the grounds upon which the application is dismissed, I do not think it will be proper to award costs of this application to either party. Accordingly I make no order with regard to costs.