



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 63 OF 2015 (OS)

M A O.....PLAINTIFF

VERSUS

J P O.....DEFENDANT

RULING

1. I am tasked with determining a Motion dated 1st February 2016. It seeks several orders – access to an apartment at [particulars withheld] Westlands, a declaration that another property at Westlands is matrimonial property that ought to be accessible to both parties, the plaintiff and the children of the restrained from doing various things set out in the application, a certain motor vehicle be released to the applicant and the officer in charge of the police station at Kileleshwa oversee the enforcement of the order. The application is at the instance of defendant, J P O, who swore an affidavit in support on 1st February 2016.

2. There is a reply on record to the said application by the plaintiff. She swore an affidavit on 1st April 2016. She avers that for the sake of all concerned, the defendant ought to be confined to the home at Sigomere while she remains at the home at Maruti pending determination of the suit.

3. The application was brought under certificate of urgency, and was placed before the Duty Judge on 2nd February 2016, who granted orders as follows:-

(a) That the apartment at [particulars withheld] Court to be preserved and the defendant/applicant to reside in it with the family pending the hearing and determination of the matter;

(b) That said property to remain the home for both parties and the children pending hearing and determination of the main suit;

(c) That the officer in charge of the Kileleshwa police station to supervise implementation of the order.

4. A formal order in those terms was extracted on 11th February 2016.

5. The application was orally urged before me on 22nd September 2016.

6. I have carefully considered the orders made by Muigai J. on 2nd February 2016. Those orders were final in respect of all the issues raised in the application save for the prayer on the motor vehicle. There is really nothing for me to determine in the application as the orders sought have already been granted.

7. On the motor vehicle, I note that the applicant has said nothing about it in his affidavit in support of the application. He has not made a case for its release to him. There is therefore no basis for making any orders with regard to it.

8. There is nothing more to say, save that the parties should move with speed to have directions taken for disposal of the main suit. It is so directed.

DATED and SIGNED at NAIROBI this 3RD DAY OF MAY, 2017.

W. MUSYOKA

JUDGE

DELIVERED and SIGNED this 5TH DAY OF MAY, 2017.

M. MUIGAI

JUDGE