



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT THIKA**  
**ELC CAUSE NO. 180 OF 2017**  
**(FORMERLY NAIROBI ELC 297 OF 2014 CONSOLIDATED**  
**WITH NRB ELC 1282 OF 2017**

ROSE WANGARI NDUNGU

ROSE WANJIKU NDUNGU (Suing on their own behalf

and for their own benefit and on behalf of and for

the benefit of the Estate of the late Stanley Ndungu Njoroge).....PLAINTIFF/RESPONDENT

VERSUS

CATHERINE NJERI.....1<sup>ST</sup> DEFENDANT/RESPONDENT

STELUC LIMITED.....2<sup>ND</sup> DEFENDANT/APPLICANT

**RULING**

The matter for determination is the Notice of Motion Application dated 21<sup>st</sup> March 2019, by the 2<sup>nd</sup> Defendant/ Applicant seeking for orders that;-

1. Spent

2. Spent

3. *THAT the Honourable court be pleased to issue a temporary mandatory injunction compelling the 1<sup>st</sup> Defendant, her agents, servant, employee or anyone claiming to act under instructions or authority from the 1<sup>st</sup> defendant from encroaching, trespassing, building, wasting, damaging, alienating, disposing, selling and/or in any way interfering with land parcel no. DAGORETI/RIRUTA/6213 pending the hearing and determination of this suit.*

4. Spent

5. *The Honourable court be pleased to issue a temporary mandatory injunction compelling the 1<sup>st</sup> defendant, her agents, servant, employees and/or any one claiming to act under the 1<sup>st</sup> defendants instructions or authority to forthwith vacate from land parcel NO. DAGORETTI/ RIRUTA / 6213 pending the hearing and determination of this suit.*

6. *Upon grant of prayer 4/5 above, this honourable court be pleased to fix a time frame within which the 1<sup>st</sup> defendant, her agents, servants, employees and/or any one claiming to act under the defendant's instructions or authority ought to vacate from land parcel no. DOGORETTI/RIRUTA/6213 and in the event of non-compliance, the 2<sup>nd</sup> defendant to the counterclaim be at liberty to evict the 1<sup>st</sup> defendant and her agents, servants, employees and/or any one claiming to act under the defendants instructions or authority and in that event, 1<sup>st</sup> defendant be ordered to pay the 2<sup>nd</sup> defendant to the counterclaim all costs attendant thereto.*

7. *The Officer Commanding Station (OCS), Muthangari Police Station, do supervise the implementation and enforcement of court order herein.*

**8. The 1<sup>st</sup> defendant do pay the costs of this application.**

The Application is premised on the grounds that the 2<sup>nd</sup> Defendant/ Applicant to the Counterclaim, **Steluc limited**, is the **registered** and **absolute** owner of the suit property, who is entitled to enjoy all **rights** accruing to a registered proprietor. That on **23<sup>rd</sup> May 2017**, this court issued an injunction against the 1<sup>st</sup> Defendant restraining her from dealing with the suit property pending the hearing and determination of this suit.

Further that on **26<sup>th</sup> October 2017**, the court further ruled that the 2<sup>nd</sup> Defendant to the counterclaim is at liberty to use and/or utilise the suit property.

However, the 1<sup>st</sup> Defendant/Respondent has refused to vacate the suit property and in violation of the courts orders continues to build haphazardly thereon, carry out other scattered development on the suit property, waste the suit property and the said property is now in danger of being surreptitiously alienated by the 1<sup>st</sup> Defendant to the extreme prejudice of the 2<sup>nd</sup> Defendant/ Applicant to the counterclaim. It was further contended that by reason of the 1<sup>st</sup> Defendant's/ Respondent's, continuing unlawful actions, the 2<sup>nd</sup> Defendant/ Applicant to the counterclaim has totally been denied the use, possession and occupation of the suit property by the 1<sup>st</sup> Defendant/Respondent and its plans to develop and commence economic activities on the suit property are now in jeopardy. That the impending loss and damage to the 2<sup>nd</sup> Defendant/ Applicant to the counterclaim is not quantifiable in monetary terms nor can it be adequately compensated by way of damages. Further that the orders sought herein are **fair** and **meet** in the totality of all material circumstances and it is only in the interests of justice and all fairness that this honourable court grants the said orders to avert the immense prejudice bound to befall the 2<sup>nd</sup> Defendant/Applicant of the counterclaim.

In his Supporting Affidavit, **Stephen M. Githiga** averred that the 2<sup>nd</sup> Defendant/Applicant is the **registered** and **absolute** owner of the suit property having legally and lawfully purchased the same from the Plaintiffs. He further averred that prior to acquisition of the suit property by the 2<sup>nd</sup> Defendant, a search was conducted which established that the Plaintiffs/Respondents were the registered owners of the suit property. The search also revealed that there were no encumbrances registered against the title or any restraints on disposition. Further that he was aware that this Court had, in its Ruling delivered on **23<sup>rd</sup> May 2017** pronounced that the Plaintiffs/ Respondents were **absolute** and **indefeasible** proprietors of the suit property, entitled to enjoy rights accruing to a proprietors of land under **Section 24(a) and 25(1) of the Land Registration Act**. He averred that he has been advised by their advocate that one of the rights accruing to a registered proprietor of land is the right to sell and transfer the suit property to the 2<sup>nd</sup> Defendant/Applicant.

He contended that the 2<sup>nd</sup> Defendant/Applicant has been unable to take up possession, use and/or utilise the suit property as the 1<sup>st</sup> Defendant who is in occupation has, despite this Court's said order which have been served on her as well as various oral and written demands, refused to vacate and surrender possession of the suit property to the 2<sup>nd</sup> Defendant/Applicant to the counterclaim. Further that he has been informed by one **Peter Sema Mutunga**, a process server of this court that when he went to serve the Court Order on the 1<sup>st</sup> Defendant/Respondent on **8<sup>th</sup> March 2019**, the 1<sup>st</sup> Defendant/Respondent became violent and raised a false alarm inviting the attention of members of public, who threatened to lynch the process server and he was rescued by Policeman on patrol. It was his contention that the 1<sup>st</sup> Defendant/Respondent has neither proprietary right nor interests over the suit property and her actions are criminal and also amount to illegal unlawful continuing trespassing and a nuisance.

That the 2<sup>nd</sup> Defendant/Applicant is an innocent purchaser for value and that he is advised by his advocates which advise he believes to be true that a closer look at the Amended Defence and Counterclaim reveals that the parameters for challenging of the 2<sup>nd</sup> Defendants/Applicant's title to the suit property as postulated under **Section 26(1) of the Land Registered Act** have not been demonstrated. Further that the 2<sup>nd</sup> Defendant/Applicant intends to develop and commence economic activities on the suit property, but by reason of the actions of 1<sup>st</sup> Defendant/Respondent to the counterclaim, has totally been denied the use, possession and occupation of the suit property by the said 1<sup>st</sup> Defendant/Respondent. That its said plans are now in jeopardy and its loss and damage not quantifiable in monetary terms nor can it be adequately compensated by way of damages.

Further **Peter Sema Mutunga** swore an Affidavit on **21<sup>st</sup> March 2019**, and averred that on **8<sup>th</sup> March 2019**, he received Court orders dated **30<sup>th</sup> May 2017**, and **26<sup>th</sup> February 2019**, as well as **notice** to vacate letter dated **7<sup>th</sup> March 2019**, from **Ms. Ngugi & Associates Advocates** with instructions to serve the 1<sup>st</sup> Defendant/Respondent. He further averred that he received information from the 2<sup>nd</sup> Defendant/Applicant that the 1<sup>st</sup> Defendant/ Respondent could be found on the suit property. That he proceeded to the suit property and introduced himself to the 1<sup>st</sup> Defendant and informed her of his purpose. That he served her with the Court Orders and the **Notice** to vacate and upon perusing the same, she informed him that she could not receive the documents as she had an Advocate on record. He averred that when he tried to explain that the documents were to be served upon her personally, the 1<sup>st</sup> Defendant/ Respondent threw the documents back at him and demanded that he walks out. That she then approached him with another gentleman and after getting out if the gate, she snatched his bag and screamed and started beating him and dragging him towards the compound. That the scuffle attracted the attention of members of the public and a multitude of people surrounded him. Fortunately **two** Administration Police officers, who were on patrol intervened and requested him to identify himself. That upon production of his Court Process Server Certificate and the other court documents, he was rescued. That he reported the matter to Muthangari Police Station and on **19<sup>th</sup> March 2019**, he went back to the suit property accompanied by a Police Officer and served the 1<sup>st</sup> Defendant/ Respondent with the documents.

In Support of the Application, the Plaintiffs **Rose Wanjiku Ndungu** and **Rose Wangari Ndungu**, swore a Replying Affidavit and averred that they are the Administrators of the estate of the late **Mr. Stanely Ndungu Njoroge**, the registered owner of the suit property. They contended that the 2<sup>nd</sup> Defendant's /Applicant's application is **merited** and ought to be granted as prayed since they were the lawful registered owners of the suit property and they held title to the land. Further that vide the **Court's Ruling and Order** dated **23<sup>rd</sup> May 2017**, they were confirmed as the lawful registered **absolute** and **indefeasible** proprietors of the suit property. That they then lawfully sold the property to the 2<sup>nd</sup> Defendant/Applicant who was confirmed as the new lawful owner vide the court's ruling and order dated **26<sup>th</sup> October**

2018.

It was their contention that, despite the above orders of the Court, the 2<sup>nd</sup> Defendant/ Applicant still has no access to the suit premises as the court did not issue an express eviction order against the 1<sup>st</sup> Defendant/Respondent. Further that despite earlier injunction barring the 1<sup>st</sup> Defendant/Respondent from interfering with the property and stating that **Stelluc Limited was at liberty to use and/or utilize the suit property**, the 1<sup>st</sup> Defendant/Respondent has continued to occupy a property that is lawfully owned by the 2<sup>nd</sup> Defendant/Applicant. That the 1<sup>st</sup> Defendant/ Respondent has constructed structures on the suit premises and has otherwise wasted the suit premises thus disobeying the above Court Order granted by this Court.

Further that the 2<sup>nd</sup> Defendant/Applicant, a bonafide purchaser, and the current lawful registered absolute and indefeasible proprietor, was later enjoined to the suit by the 1<sup>st</sup> Defendant/Respondent, paving way for it to lodge a Counterclaim against the 1<sup>st</sup> Defendant/Respondent and apply for appropriate order to give effect to the earlier Court Order stated above, That the 2<sup>nd</sup> Defendant/ Applicant should be granted actual possession of the sit property

It was their further contention that they have been advised by their Advocate on record, that the 2<sup>nd</sup> Defendant/Applicant's application is merited as the 2<sup>nd</sup> Defendant/Applicant, who seeks a temporary injunction among other prayers, has clearly demonstrated a **prima facie** case with probabilities of success and irreparable loss that cannot be compensated by way of damages .Further that balance of convenience rests with it and that the 1<sup>st</sup> Defendant/Respondent has no colour of right to remain on the suit property that is lawfully owned by the 2<sup>nd</sup> Defendant/Applicant.

They denied that one **Gabriel Kungu Kamunu** has ever been the legal owner of the parcel of land known **Dagoretti/Riruta/264** or that he ever purchased the said parcel of land from their late husband, **Stanley Ndungu Njoroge**

It was their contention that they became the lawful registered owners of the suit property by inheritance and transmission. The suit property was then registered in their names as beneficiaries of the said parcel of land by transmission, and they held lawful undisputed title to the suit premises. That the letters of Administration in respect of the estate of the late Mr **Stanley Ndungu Njoroge**, were obtained with participation of all lawful beneficiaries and in accordance with the laid down procedures and the same was duly gazetted as required by law. That there was never any objection raised by the 1<sup>st</sup> Defendant/Respondent or anyone else whatsoever. They urged the Court to allow the 2<sup>nd</sup> Defendant/Respondent's application.

The 1<sup>st</sup> Defendant/ Respondent filed a Replying Affidavit sworn by herself on **4<sup>th</sup> April 2019**, in which she reiterated the contents of her earlier affidavits. It was her contention that the instant Application is frivolous as at no time has the Court declared that she is a trespasser on the suit property nor has there been any order compelling her to move from the suit property. She averred that the Applicant is under a misguided belief that the matter of the title to the suit property has been dealt with, yet the matter has not been heard to its finality. Further that she has challenged the Plaintiffs right over the suit property and that her entry and stay on the suit property for over 30 years has been with the knowledge of the Plaintiffs who are wives of the late **Stanley Ndungu Njoroge**, the beneficial owner of the suit property. That the suit property has now been sold to the 2<sup>nd</sup> Defendant/Applicant and the 2<sup>nd</sup> Defendant/Applicant purchased the suit property with full knowledge of her stay thereon and cannot purport to plead innocent purchaser . Further that the 2<sup>nd</sup> Defendant/Applicant's action of coming to Court to seek an order of her **eviction** has been done in bad faith as it is aware that the dispute revolves around legality of the title over the property and this question can only be answered upon full hearing of the matter.

She contended that her position has always been that she expected the plaintiffs to hive off her portion at the time they were taking out letters of Administration, only for her to realize that the said letters had been issued and the Plaintiffs gave themselves her portion. It was her contention that the Rulings of **23<sup>rd</sup> May 2017** and **26<sup>th</sup> October 2018**, were given by the Court for the Plaintiffs and the 2<sup>nd</sup> Defendant to utilize the land pending the hearing of the main suit and there was no mention of her being ejected from the suit property . She denied ever denying the Applicant access to the suit property or that she has been constructing on the said property. That she only repaired her mabati fence and that the Applicant seeks to deal with the matter to finality as her eviction would mean that there was nothing to litigate upon. That the whole substratum of her case will have been destroyed if the orders sought herein are granted.

She further denied attacking the process server and averred that she only advised him to liaise with her advocates as her advocates had advised her not to receive any documents. She urged the Court not to allow the Application as she is determined to show the Court that she owns the suit property. Further that the matter raised in the application are matter that should be dealt with at the hearing of the substantive suit.

The 2<sup>nd</sup> Defendant/ Applicant filed a Supplementary Affidavit sworn by **Stephen Githiga** on **3<sup>rd</sup> May 2019**, and averred that it was not true that the 1<sup>st</sup> Defendant's/Respondent's husband bought the suit property from **Stanley Ndungu Njoroge**, and that the sale would have been illegal as the said **Stanley** had no locus to enter into any sale agreement since he was not the Administrator of the Estate of **Njoroge Thuku** and no consent from **Land Control Board** had been given. That the 1<sup>st</sup> Defendant's/ Respondent's allegation that she has been in the suit property for over 30 year has no evidential basis. He reiterated that the 2<sup>nd</sup> Defendant/Applicant is an innocent purchaser for value and that at the time of purchase, it had no knowledge of the 1<sup>st</sup> Defendant's/Respondent's purported claim over the suit property and that the 1<sup>st</sup> Defendant/Respondent has no title to the suit property and her alleged stay and possession of the suit property has no legal basis. He further averred that he has been advised by his Advocates on record that the Court has jurisdiction to grant an interim mandatory injunction in the nature of an eviction order pending the hearing and determination of the dispute if the grounds are merited.

He further averred that the 1<sup>st</sup> Defendant has actively frustrated the 2<sup>nd</sup> Defendant's efforts to utilise the suit property by denying it access, possession and occupation of the suit property as she is always hostile to any access. Further that the 1<sup>st</sup> Defendant has continued to carry out construction on the suit property and that the Court Orders were to be served upon the 1<sup>st</sup> Defendant/ Respondent personally as she was the one bound by the same and answerable the Court in case of disobedience and not her advocates.

The parties filed written submissions which the Court has now carefully read and considered. The issue for determination is ***whether the 2<sup>nd</sup> Defendant/ Applicant is entitled to the orders sought.***

The Applicant has sought for mandatory orders of injunction compelling the 1<sup>st</sup> Defendant/ Respondents and her representatives to vacate the suit property and that the Court to fix a time frame within which the 1<sup>st</sup> Defendant should vacate the suit property. The grounds upon which the instant Application has been brought is that it is the registered owner of the suit property, further that the Court issued an injunction against the 1<sup>st</sup> Defendant/ Respondent but that she is still carrying on developments on the suit property. Further, that the 1<sup>st</sup> Defendant/ Respondent has refused to vacate the suit property. The principles upon which a mandatory injunction is granted were pronounced in the English case of **Locabail International Finance –...Vs... Agro-export and Others, [1986] All E.R 901 at pg.** where the Court held that

***“A mandatory injunction ought not to be granted on an interlocutory application in the absence of special circumstances, and then only in clear case either where the court thought that the matter ought to be decided at once or where the injunction was directed at a simple and a summary act which could be easily remedied or where the Defendant had attempted to steal a march on the plaintiff. Moreover before granting a mandatory interlocutory injunction the court had to feel a high degree of assurance that at the trial it would appear that the injunction had rightly been granted, that being different and a higher standard than was required for a prohibitory injunction.”***

Further in the case of **Ndungu Boro ...Vs... Peter K. Njuguna & Another [2002] eKLR** the Court held that;

***“The Court of Appeal applied this principle recently in the Civil Appeal No. 332 of 2000 between Kenya Breweries Ltd and Another –v- Washington O. Okeyo. It is clear therefore that a mandatory injunction can be granted on an interlocutory application as well as at the full hearing. But the case has to be unusually strong and clears before the court can grant, especially at the interlocutory stage. The court will not grant a mandatory injunction if the damages caused by the unlawful acts of the Defendant is trivial or if the granting of it will inflict on the Defendant a disproportionate detriment than the benefit it would confer upon the Application/Plaintiff. The basic concept is that of producing a “fair result” and this will involve the exercise of this court’s discretion in coming to the conclusion at the interlocutory stage that the granting of it is right. To apply the above principle however, this court has first to consider whether or not the principles in the famous Giella case have also been met in this case. The application has to show that he has in his favour, a prima facie case with reasonable chances of success or that if the injunction is not granted in his favour he will suffer irreparable loss that may not be compensable by damages and finally, if these two issues are not in favour, nevertheless, considering all the circumstances of the case, the balance of convenience tilts in his favour.***

It is not in doubt that mandatory orders of injunction can be granted at the interlocutory stage, where there are special circumstances. Further the mandatory orders of injunctions are to be granted if the Applicant has satisfied the principles required for a party to be granted such orders and also if the court is satisfied that the party qualifies for temporary orders of injunction.

The principles for the grant of temporary orders of injunction were well spelt out in the celebrated case of **Giella vs Cassman Brown Co. Ltd (1973) EA 358** as follows:

***“The conditions for the grant of an interlocutory injunction are now, I think, well settled in East Africa. First, an applicant must show a prima facie case with a probability of success. Secondly, an interlocutory injunction will not be normally granted unless the applicant might otherwise suffer irreparable injury which would not adequately be compensated by an award of damages. Thirdly, if the court is in doubt, it will decide an application on the balance of convenience.”***

In **Mrao ...Vs...First American Bank of Kenya & Two others [2003] KLR 125** a prima facie case was described as:-

***“a prima facie case in a civil application includes but is not confined to a genuine and arguable case. It is a case which, on the material presented to the court, a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter.”***

It is not in doubt that the Applicant is the registered owner of the suit property and therefore it is clear that it has established a **prima facie** case with probability of success. The next limb for grant of temporary injunction is whether the party will suffer irreparable harm that cannot be compensated by way of damages.

‘**Irreparable loss**’ was described in the case of **Paul Gitonga Wanjau...Vs...Gathuthi Tea Factory Co. Ltd & 2 Others, Nyeri HCC No.28 of 2015,** as ***simply injury or harm that cannot be compensated by damages and would be continuous.***

The 2<sup>nd</sup> Defendant/ Applicant has averred that the 1<sup>st</sup> Defendant/Respondent has been interfering with the suit property by not allowing them entry and use of the said property, despite the existence of a Court Order. The 1<sup>st</sup> Defendant/Respondent has denied these facts and alleged that she was only repairing her mabati fence. This Court notes that the Court order barred the 1<sup>st</sup> Defendant/ Respondent from carrying out any developments and in carrying such developments, it means that the 2<sup>nd</sup> Defendant/ Applicant who is the registered owner may be at a disadvantage. This Court therefore finds that the 2<sup>nd</sup> Defendant is at risk of suffering irreparable harm if it is not allowed to use of the property despite a Court Order. Further, if developments are still being carried on the said property contrary to its interests then the applicant is at risk of losing its stratum.

When the Court is in doubt it can always decide the case on the balance of convenience. In this case the Court is not in doubt that the

Applicant is the registered owner of the suit property and therefore the Court finds and holds that the 2<sup>nd</sup> Defendant/ Applicant has established the threshold for grant of temporary orders.

However this is only the first step towards deciding whether or not to grant mandatory injunction as the Court must further be satisfied that there are special circumstances to warrant grant of the said mandatory orders.

The Applicant has sought for mandatory orders and in this case the mandatory injunction. From the above case law, it is clear that the Court in deciding whether or not it should grant the mandatory injunction, it should be guided by first whether there are special circumstances, whether or not the injunction is directed at a simple and summary act which could be easily remedied.

*In the case of Kenya Breweries Ltd & Ano....Vs....Washington O. Okeyo, Civil Appeal No.332 of 2000. 1EA 109*, where the Court held that:-

***“A mandatory injunction can be granted on an interlocutory application as well as at the hearing but in the absence of special circumstances, it will not normally be granted. However, if the case is clear and one which the Court thinks it ought to be decided at once, or if the act done is a simple and summary one which can be easily remedied or if the Defendant attempted to steal a march on the Plaintiff.... a mandatory injunction will be granted on an interlocutory application”. See Volume 24 Halsbury Laws of England 4<sup>th</sup> Edition Paragraph 948.***

The Court in determining whether or not the acts by the 1<sup>st</sup> Defendant/ Respondent are trivial is guided by the fact that there is a Court order issued before this Court allowing the 2<sup>nd</sup> Defendant/ applicant to use and utilize the suit property. The Defendant has contended that the 1<sup>st</sup> Defendant/ Respondent has not allowed it the use of the suit property despite the existence of a Court order. Further the process server detailed in his Affidavit that the 1<sup>st</sup> Defendant/ Applicant was hostile to him. The Court did make an order that the applicant was at liberty to use the suit property. By constructing thereon, the 1<sup>st</sup> Defendant is trying to steal a march against the applicant/2<sup>nd</sup> Defendant and change the stratum of the suit property.

It is further not in doubt that the 1<sup>st</sup> Defendant/ Respondent continues to carry on developments whether minor or major on the suit property contrary to the Court orders. Therefore, the Court finds and holds that the actions of the 1<sup>st</sup> Defendant/Respondent are not trivial and consequently, finds that there exists special circumstances that warrant the Court to grant the mandatory injunctions. It is clear that the 1<sup>st</sup> Defendant/ Respondent ought not to be allowed to continue occupying position of advantage to the detriment of the 2<sup>nd</sup> Defendant/ Applicant.

The 2<sup>nd</sup> Defendant/ Applicant is the registered owner of the suit property, as this Court granted the Applicant the right to use and utilize the said property. For the 2<sup>nd</sup> Defendant/ Applicant to be able to use the suit property, the 1<sup>st</sup> defendant/ Respondent who is in possession must then pave way as her actions on the suit property have been to the prejudice of the Defendant/ Applicant who is the owner of the suit property

It is the Court's considered view therefore that the mandatory orders sought by the 2<sup>nd</sup> Defendant/ Applicant are therefore merited

The Upshot of the foregoing therefore is that the 2<sup>nd</sup> Defendant/ Applicant Application dated **21<sup>st</sup> March 2019** is found **merited** and the same is allowed entirely in terms of Prayers no. **3, 5, 6** and **7**.

The 1<sup>st</sup> Defendant/Respondent should pave way or comply with Prayer no. 5 within a period of **45 days** from the date hereof. Failure to do comply, then the applicant should enforce prayer no. 6. The 1<sup>st</sup> Defendant/ Respondent to meet costs of this application.

It is so ordered.

**Dated, signed and Delivered at Thika this 16<sup>th</sup> day of July 2020**

**L. GACHERU**

**JUDGE**

**16/7/2020**

**Court Assistant – Lucy**

**ORDER**

In view of the declaration of measures restricting court operations due to the **COVID-19** Pandemic, and in light of the directions issued by His Lordship, the Chief Justice on **15<sup>th</sup> March 2020**, this **Judgement** has been delivered to the parties online with their consents. They have waived compliance with **Order 21 rule 1** of the **Civil Procedure Rules** which requires that all judgments and rulings be pronounced in open Court.

**With Consent of and virtual appearance via zoom**

**Mr. Kinyanjui for the Plaintiffs/Respondents**

**Mr. Gakaria for the 1<sup>st</sup> Defendant/Respondent**

**Mr. Ngugi for the 2<sup>nd</sup> Defendant/Applicant**

**L. GACHERU**

**JUDGE**

**16/7/2020**