



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT NAIROBI**

**MILIMANI LAW COURTS**

**Environmental & Land Case 115 of 2011**

**BENARD MBALUKA NGULA .....PLAINTIFF/APPLICANT**

**VERSUS**

**ZAHURA NJERI KURIA .....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**MUGO NJERU .....2<sup>ND</sup> DEFENDANT/RESPONDENT**

**ATTORNEY GENERAL .....3<sup>RD</sup> DEFENDANT/RESPONDENT**

**RULING**

i. The plaintiff/applicant filed a Notice of Motion on the 14/5/12 seeking orders to have the interim orders issued on the 17<sup>th</sup> May 2011 extended until the determination of the suit. The grounds to support this application are stated on the face of the application. The application is also supported by the affidavit of Bernard Mbaluka Ngula. In it he explains that reasons why they failed to have the matter fixed for hearing. He explains that his counsel took all steps to expedite the hearing but the matter was not heard. Miss Nzilani in her oral submissions gave steps of what they did to fix the matter for hearing. The application was opposed by the respondents. The respondent filed grounds of opposition and their counsel made oral submission in Court.

I have carefully considered the submissions made in Court. The applicant has stated the steps he took through his counsel to fix the matter for hearing. His reasons are plausible bearing in mind that this that Court takes judicial notice of the fact that the Court diary was for sometime congested. The plaintiff has prepared the suit for hearing. I find that they have not been lax in the matter. I find that they have sufficiently demonstrated the hardship they had. I agree with Miss Nzilani that the respondent will not suffer any prejudice if orders that were granted are extended for a limited period. I do not agree with Counsel for the respondent that granting the extension of the orders given by the Court on the 17/5/11 would be in vain. The plaintiff/applicant moved to Court in good time to have the orders extended. In the

interest of justice and so as to preserve the status quo pending hearing of the main suit I will extend the orders given on the 17/5/11 for a further 12 months from today. Pending the hearing and determination of the suit. The plaintiff must have endeavored to have the suit fixed for hearing in the period given.

Costs shall be in the cause.  
Orders accordingly.

**Dated, signed and delivered this 4<sup>th</sup> day of July 2012**

**R. OUGO  
JUDGE**

In the Presence of:-

..... For the Applicant

..... For the Respondents

..... Court Clerk