

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 33 of 2002 (O.S)

AMOS WERU MURIGU.....APPLICANT

VERSUS

MARTHA WANGARI KAMBI.....1st RESPONDENT

LAND REGISTRAR NYAHURURU.....2ND RESPONDENT

R U L I N G

Before me is an application by way of Chamber Summons dated 5th January 2009 brought by the 1st Defendant/Applicant seeking orders of eviction against the Plaintiff/Respondent following judgment delivered by this court on 30th September 2005 on the grounds as stated on the body of the Chamber Summons and supported by the affidavit sworn by the Applicant on 5th January 2009 in which she avers that the Respondent had on 9th January 2002 instituted a suit against her by way of Originating Summons claiming adverse possession of the suit property being **LR No NYAHURURU/SOUTH KINAGOP/66** claiming that he had been in occupation of the suit land uninterrupted for over 22 years.

The suit was heard by Kariuki J. who dismissed the same with costs in his judgment delivered on 30th September 2005. The Applicant submitted that as the Respondent did not appeal against that judgment. She has subdivided the suit land resulting into six new titles which she has allocated to her children but the Respondent has denied them access and hence this application.

The Respondent having not appealed against the judgment of this court, he cannot claim any interest over the suit land.

Accordingly the Applicant's application is allowed in terms of prayer 1 and 2 of the Chamber Summons dated 5th January 2009. The Respondent is given 3 months to vacate the suit land and if he does not vacate as ordered the OCS Njabini Police Station do enforce this eviction order.

The Applicant is also entitled to costs of this application and it is so ordered.

Dated and delivered at Nairobi this 5th day of May 2009.

J. L. A. OSIEMO

JUDGE