



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL CASE NO 24 OF 1998**

**JOGINDER KAUR SEHMI.....PLAINTIFF**

**VERSUS**

**HARBANS SINGH ROOPA.....DEFENDANT**

**RULING**

By an application dated 7th and filed on 8th January, 1998, the plaintiff sought recovery of possession of premises known as and situated at block 4BR, Crescent Road, Parklands, Nairobi, an order that an account be taken of all electricity bills, water bills and repairs effected to the premises by the defendant and cost. The application is supported by an affidavit sworn by the plaintiff to which the defendant has filed a reply. Both learned counsel have also made their respective submissions.

The plaintiff has been and still is the owner of the suit premises. The defendant has been and still is the tenant therein.

The parties herein entered into a tenancy agreement which provided, inter alia, for renewal of the tenancy, and termination in the event of any breach of the terms set out therein.

The lease expired on 30th October, 1997. The defendant did not exercise his option to renew the same but continued to occupy the premises. It is common ground that thereafter he became a month to month tenant. Such a tenancy requires a notice of one month to terminate the same.

It is the plaintiff's case in this application that the said notice was given vide several correspondence resting with the letter dated 14th November, 1997 which required the defendant to give vacant possession of the suit premises latest by 31st December, 1997. the defendant did not comply. He instead held over and raised a demand for cost of repairs he had effected in the said premises.

The plaintiff has also raised the issue of nuisance on the part of the defendant to the annoyance of the plaintiff and other adjoining occupants.

After going through the matter including the submissions of learned counsel appearing for the parties I find that the relationship between the parties herein was governed by a tenancy agreement. That agreement expired but was not renewed. A notice was given to the defendant to vacate the premises. That notice was valid considering that it was in excess of one month in relation to a month to month tenancy. The defendant did not vacate as required under the said notice. This court has the power and jurisdiction to enforce the said notice.

The other matters raised in the replying affidavits relating to cost of repairs can be urged by a civil action and stand remotely from the present issue.

Accordingly, the application of the plaintiff hereby succeeds. The defendant shall give vacant possession of the suit premises not later than 30th march, 1998. An account shall be taken as sought in prayer No. 2 of the Chamber Summons. The plaintiff shall also have the costs of the application.

Orders accordingly.

Dated and delivered at Nairobi this 26th day of February, 1998.

A. MBOGHOLI MSAGHA

JUDGE

Radido for Mrs Guserwa for plaintiff/applicant

Mwange for Joshi for defendant