

REPUBLIC OF KENYA

HIGH COURT AT NAIROBI

CIV APP 32 OF 98

CHARLES MBUGUA NJUGUNA.....APPELLANT

VERSUS

JULIAS NGARACHU KARANJA.....RESPONDENT

RULING

The appellant has applied for an injunction to restrain the respondent from entering, trespassing, constructing or interfering with plot No. 29/Gatura/Thika.

There is a pending appeal arising from the decision of the lower court in Thika.

When this matter came up for hearing on 19th February, 1998 the parties entered into a consent party on which required that an affidavit be obtained for the Surveyor Thika Municipality about the dispute. The said affidavit was subsequently filed by one Kenneth Kamau Ngarihu the County Surveyor incharge of Thika Municipal Council.

Paragraph 10 of the said affidavit shows that the surveyor confirms to the court that no plot has been encroached physically or documentary on either plot No. 29 or those to be registered on the names of the two parties herein.

This conclusive evidence that the appellant cannot establish any complaint whatsoever in response to the matters raised in his affidavit. In support of his application for an injunction ,I see no merit in the said application which I hereby dismiss with costs.

Orders accordingly.

Dated and delivered at Nairobi this 31st day of July, 1998

A. MBOGHOLI MSAGHA

JUDGE