

REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO. 3178 OF 1995**

KIBUCHO LIMITED.....PLANTIFF

VERSUS

NAIROBI CITY COUNCIL & ANOTHER.....DEFENDANT

R U L I N G

The learned counsel for the defendant herein has raised two preliminary points. The first is that the application is res-judicata and the second is that the orders sought are likely to affect parties who are not represented in this suit.

I gone through the record before me and with respect find that the two points cannot dispose this application.

I therefore make an order that the entire application shall be argued on merit with liberty to raise the same points above.

Each party shall bear own costs. Orders accordingly.

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

A. MBOGHOLI MSAGHA

JUDGE