

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 3200 OF 1997

PETER KAGWI & 3 OTHERS.....PLAINTIFF

VERSUS

WANJIKU GICHIRE & ANOTHER.....DEFENDANT

RULING

This is an application brought by way of Chamber Summons seeking orders that the plaintiff's suit be struck out and that the court be pleased to grant the first defendant's counter claim. Preliminary objection has been raised by the plaintiffs which I believe goes to the root of the application. The orders sought by the defendants are both under Chamber Summons and Notice of Motion. Not all can be granted under Chamber Summons and the applicant must make a decision in which or for which form should move the court.

As it is now, the application is incompetent and is accordingly struck out with costs. The applicant is at liberty to bring a fresh application. Orders accordingly.

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

A. MBOGHOLI MSAGHA

JUDGE

Mr Nyamodi for plaintiff/respondent

Mr Muindi for defendant/applicant