

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: KWACH, TUNOI & LAKHA, J.J.A.)
CIVIL APPLICATION NO. NAI. 155 OF 1999

MUHIDEEN ALI AHMED 1STAPPLICANT
ABDULLAHI JAMA 2NDAPPLICANT
AND
AHMED KHALIFA OMAR 1STRESPONDENT
NGOME AGENCIES 2NDRESPONDENT

(Appeal from the Ruling of the High Court of Kenya at Nairobi
(Justice Githinji) dated 11th June, 1999
in
H.C.C.C. NO. 2636 OF 1998)
RULING OF THE COURT

This is an application under rule 5(2)(b) of the Rules of this Court for a stay of the Order of the superior court (Githinji, J.) given on 11 June, 1998 whereby he refused to grant an injunction restraining the respondents from evicting the applicants from the suit premises.

The applicants claim to occupy to be in premises of one **B. Jomo Kangethe** who in consideration of carrying out certain repairs to the suit premises waived the applicants' obligation to pay rents. Sometime in May 1998 Kangethe sent notice to the first applicant that he had sold the premises to an unnamed third party and would cease to be the landlord with effect from 31st August, 1998. The notice did not indicate who the new landlord was to be. It would seem that after that date and without notice to the applicants the respondents herein entered the premises and forcefully evicted the applicants claiming to be the new owners of the premises. The applicants applied to the superior court for an injunction.

Having heard Miss Ali for the applicants before this Court, we are satisfied that the applicants have an arguable appeal with serious issues for the determination of this Court. We are also equally satisfied that unless the stay is granted the applicants' intended appeal will be rendered nugatory. The respondents are hereby ordered to reinstate the applicants to the suit premises forthwith.

Costs of the application shall abide the appeal.

Dated and delivered at Nairobi this 9th day of July, 1999.

R.O. KWACH
.....
JUDGE OF APPEAL

P.K. TUNOI
.....
JUDGE OF APPEAL.

A.A. LAKHA
.....
JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR