

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

CIVIL CASE 2011 OF 1998

GITHUNGURI DAIRY FARMERS &

CO-OPERATIVE SOCIETY LIMITED.....PLAINTIFF

VERSUS

JEREMIAH MUNGAI MWAURA & 3 OTHERS.....DEFENDANT

RULING

On 25.5.1998 the applicant plaintiff filed this suit by way a plaint against the respondents/defendants seeking the following orders:

(a) An order for removal of the caution lodged against Land reference numbers GITHUNGURI/KIANJAI/1206 and 1440.

(b) General damages

(c) Costs of the suit

(d) Interest on (a) and (c) above at court rates

(e) Any other relief this court may deem just to grant. This plaint was accompanied by an application by way of notice of motion seeking for orders.

(a) That the cautions lodged in respect of the land parcels reference No. GITHUNGURI/KIANJAI/1206 and 1440 be removed.

(b) That the respondents do pay costs of this applications. This application is the one which came up for hearing and was argued at length. It is apparent that the orders sought in this application are similar to those sought in the main suit, that is removal of the cautions lodged on land references No. GITHUNGURI/KIANJAI/1206 and 1440.

If the orders sought in this application are granted it will dispose of the whole suit and there will be nothing left for the trial judge. The applicant is seeking to dispose of the suit through an application which will deny the parties the opportunity to be heard in the main suit.

For that reason alone and without going into other issues raised during the submissions, I dismiss this application with costs to the respondent/defendant.

J.L.A. OSIEMO

JUDGE

19.11.1998