



REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: OMOLO, AKIWUMI & TUNOI, J.J.A.)
CIVIL APPLICATION NO. NAI. 262 OF 1994
IN THE MATTER OF AN INTENDED APPEAL
BETWEEN

FELIX NYAUCHI 1ST APPLICANT

VERSUS

THE NAIROBI CITY COUNCIL 1ST RESPONDENT

THE COMMISSIONER OF LANDS 2ND RESPONDENT

STARDUST INVESTMENT LIMITED 3RD RESPONDENT

CONSOLIDATED WITH

ROBERT NJENGA MWAURA 2ND APPLICANT

OWEN KOIMBURI 3RD APPLICANT

GIBSON GITHUMBI 4TH APPLICANT

.

VERSUS

THE NAIROBI CITY COUNCIL 1ST RESPONDENT

THE COMMISSIONER OF LANDS 2ND RESPONDENT

STARDUST INVESTMENT LIMITED 3RD
RESPONDENT

AND

BROOKE BOND MOMBASA LTD 5TH APPLICANT

VERSUS

THE NAIROBI CITY COUNCIL 1ST
RESPONDENT

THE COMMISSIONER OF LANDS 2ND
RESPONDENT

STARDUST INVESTMENT LIMITED 3RD
RESPONDENT

(An application for stay pending appeal and injunction pending

appeal from the Ruling passed by the High Court of Kenya

at Nairobi (Justice Bosire) dated 14th December, 1994

in

H.C.C.C. NO. 2666 OF 1994, C.C. NO. 2724 OF 1994

AND CIVIL SUIT NO. 3293 OF 1994)

RULING OF THE COURT

The application by way of notice of motion sought from this court an order of stay against the orders made by Bosire, J. on the 14th December, 1994, by which order the learned judge had dismissed the suits filed by the applicants. We are also asked to grant an injunction pending the hearing of the appeal. When this matter first came before us on the 23rd December, 1994, we made temporary orders on the terms sought.

Stardust Investments Limited, through one of its directors, has written a letter to the court and in that letter it indicates that it is no longer interested in the matter. It is not represented before us to-day. We take its letter to mean that it no longer opposes the application, and that being our view, we allow this application in the terms prayed in paragraph two of the notice of motion. We award the costs of the application to the applicants and to the City Council of Nairobi, such costs to be paid by Stardust Investments Ltd. We so order.

Dated and delivered at Nairobi this 7th day of July, 1995.

R.S.C. OMOLO

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JUDGE OF APPEAL

A.M. AKIWUMI

.....

JUDGE OF APPEAL

P.K. TUNOI

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR