



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL SUIT NO. 353 OF 1999

P.N. MASHRU LIMITED.....PLAINTIFF

-VERSUS-

CASTLEDOM PROPERTIES LIMITED.....1ST DEFENDANT

THE COMMISSIONER OF LANDS.....2ND DEFENDANT

DIM AGENCIES LIMITED.....3RD DEFENDANT

RULING

1. This is the Notice of Motion dated 18.8.2017. It is brought under Order 40 Rule 7 of the Civil Procedure Rules, Section 1A, 3A of the Civil Procedure Act.

2. It seeks orders;

1. That the order of injunction made on 20th April 2001 and registered against the title of property known as L.R NO. MN/V/1907 as Entry No.4 be and is hereby set aside and discharged.

2. That the Registrar of Titles Mombasa be and is hereby directed to register and enter the discharge order herein against the title of property known as L.R NO. MN/V/1907 to reflect the discharge.

3. That costs of this application be paid by the plaintiff. The grounds are on the face of the application listed as paragraph 1-7.

It is supported by the affidavit of Amit Doshi Director of the 3rd Defendant Company sworn on the 18.8.2017.

4. The application is opposed. There is a replying affidavit sworn by Francis Mulili Director of the plaintiff company sworn on the 5.9.2017.

5. When the matter was called out in open court Mr. Oluga told the court that the injunction orders sought to be discharged were issued on 20th April 2001 by Honourable Justice P.N. Waki.

6. When I retired to write the ruling I realized that the directions he was relying on were issued by Honourable Justice A. Omollo on 24.11.2016. The Honourable is at the station.

If I purport to write a ruling, this would one way or another interfere with the said directions. Had I been made aware of the said directions I would not have heard the application.

7. It is on the record that the plaintiff has now filed a list of documents. They have also fixed the suit for hearing on 26.10.2017. Given this background I hereby direct that the file be placed before Honourable Justice A. Omollo on the 26.10.2017 to give further directions on this matter.

It is so ordered.

Dated, signed and delivered at Mombasa on the 24th day of October 2017.

L. KOMINGOI

JUDGE

24/10/2017