



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT ELDORET**

**ENVIRONMENT AND LAND CASE NO.220 OF 2015**

**RAVINDRA RATILAL TAILOR.....1ST APPLICANT**

**DAYA SINGH LAHB KALSI.....2ND APPLICANT**

**NARINDER SINGH LOCHAB.....3RD APPLICANT**

**UASIN GISHU SOCIETY OF ELDORET.....4TH APPLICANT**

**VERSUS**

**THE COUNTY GOVERNMENT OF UASIN GISHU.....1ST RESPONDENT**

**THE C.E.C LAND'S HOUSING AND PHYSICAL PLANNING**

**UASIN GISHU COUNTY.....2ND RESPONDENT**

**R U L I N G**

The plaintiffs through **Mr. Langat and G. Otieno learned Counsel** have made an oral application that they be allowed access into the property and that the Defendant/ respondents be restrained from unlawful occupation of the premises pending the hearing of the application. The plaintiff has evicted on the 8/8/2016 without notice. According to the Plaintiffs, any damages to the to be paid shall be determined at the end of the case.

**M/s Chesro learned counsel for the respondent submits** that the application should be articulated in the notice of Motion dated 9th August 2016 as the the respondents are already in occupation of the premises.

I have considered the oral application and do find that the plaintiffs are praying for status quo ante the eviction to be maintained. There is no dispute that the lease term for the suit property expired and the lease holder applied for renewal of the term to the National Land Commission. On the 20/4/2016 the chairman National Land Commission wrote to the applicant's Advocate requesting the applicant to appear before the Commission with documents to enable the Commission consider renewal of lease. The Commissioner of Lands had issued new leases to third parties but canceled the same on realizing that the leases were erroneously issued and requested the applicant to apply for renewal. The predecessor of the defendant, the Municipal Council of Eldoret has also written to the Plaintiffs informing them that the application for permission to renew the lease on LR. Parcel No. ELD Municipality Block 13/22 situated in Eldoret Municipality, Elgon View had been deferred on 21/6/2011 by Town Planning & Works Committee of the Municipal Council of Eldoret subject to clarification of the current ownership of the Land and presentation of relevant communication from the Ministry of Lands for further action.

All the aforesaid letters indicate that the Defendant, Ministry of Lands and the National Land Commission gave the applicants' **legitimate expectation** that they are still entitled to occupation until the application is determined. Without pre-empting the outcome of the inter partes application the court finds that this is a matter where status quo ante eviction should be maintained as the respondents forcefully changed the status quo by evicting the plaintiffs without coming to court. Thus the Plaintiffs are hereby put back in possession of the premises temporarily pending interparte hearing of the application.

The upshot of the above is that the Defendant should immediately vacate the premises and allow the plaintiffs to continue with their business temporarily pending interparte hearing. Orders accordingly.

**DATED AND DELIVERED AT ELDORET THIS 18TH DAY OF AUGUST 2016**

**ANTONY OMBWAYO**

**JUDGE**