



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**MILIMANI LAW COURTS**

**ELC NO. 474 OF 2012**

**JEMIMA WANJIRU KABORO**

**(Suing as Administrator of the estate of SAMUEL KABORO).....PLAINTIFF**

**VERSUS**

**EVA KAMAU.....DEFENDANT**

**RULING**

The parties herein lay claim to a plot within ***Embakasi Ranching Company Limited***. The Plaintiff claims to have been allocated plot is **No. 255** whereas the Defendant claims to have purchased **Plot No. F315** and constructed a permanent house thereon. Interestingly, both parties claim different parcels of land but situated on the same physical location. The Plaintiff in her application dated **12<sup>th</sup> August 2013** prays that ***Embakasi Ranching Company Ltd*** together with their appointed surveyors be ordered to present a report to the Court on the physical locations of the plots in issue, that is, **P.255 and P. 315** and specifically the plot that is currently occupied by the Defendant.

The application is grounded on the fact that the dispute concerns the actual physical location of the two plots, which cannot be resolved except by the technical evidence of a surveyor assisted by the offices of ***Embakasi Ranching Company Limited***, the custodian of maps, survey plans, plot numbers and other particulars necessary to resolve this dispute. Further, that once the location of the plots are resolved, the suit will be automatically be determined.

The Defendant did not oppose the application save that the Court does make an order that a Government Surveyor to undertake the exercise instead of a private surveyor.

I have considered the application and I do find it merited. The order of the Court is as follows:

1. ***A Surveyor from the Department of Surveys of Kenya, in conjunction with Embakasi Ranching Company Limited do undertake a survey exercise to establish the physical locations of the plots in issue. Thereafter, a report be filed within 60 days of the date hereof.***
2. ***Both parties shall meet the Surveyor's fees equally.***
3. ***Costs of the application shall be in the cause.***

Dated, Signed and Delivered this **5<sup>th</sup>** day of **June,2015**

**L.GACHERU**

**JUDGE**

In the Presence of:-

None attendance for the Plaintiff/Applicant

**Mr Omuga** holding brief **Mr Ndegwa** for the Defendant/Respondent

Hilda: Court Clerk

**L. GACHERU**

**JUDGE**

**Mr Omuga** : Mr Ndegwa was served with the Ruling Notice by the Court.

**L.GACHERU**

**JUDGE**

**Court:**

Since there is no Return of Service for **Mr Njuguna** for the Plaintiff, **Mr Ndegwa** to serve **Mr Njuguna** with a Notice of Ruling herein.

**L.GACHERU**

**JUDGE**

**5/6/2015**

**Court:**

Matter to be mentioned on **5<sup>th</sup> August 2015** to confirm the filing of the Surveyor's Report.

Mention Notice to issue.

**L.GACHERU**

**JUDGE**

**5/6/2015**