

IN THE COURT OF APPEAL

AT NAIROBI

CIVIL APPLICATION NO. NAI 38 OF 2004

PETER MWANGI MBUTHIAAPPLICANT

AND

1. SAMOW EDIN OSMAN)

2. NAFTALI RUTH KINYUA).....RESPONDENTS

RULING

On 2nd March, 2004, this Motion was placed before me for directions under rule 47 of the Court of Appeal Rules. I declined to certify the application as urgent.

Pursuant to a petition to the Deputy Registrar this application for urgency was argued before me on 8th March, 2004. Both Mr. Wandaka, for the applicant, and Mr. Njiru, for the second respondent, made very emotional pleas to me to have the matter certified as urgent. They averred that there has been a massive destruction of the suit property and a further delay would jeopardise the outcome of an intended appeal. Mr. Lakicha, on the other hand, did not believe that the application warranted any urgency and stressed that the applicant was at fault since he did not comply with the orders of the superior court.

Judicial decisions are not made whimsically or capriciously and emotions are not benchmarks of any judicial considerations. I will not be swayed by them. However, I have reconsidered the Motion once again. Disputes such as these ought to be disposed of expeditiously, one way or the other. Public policy demands so. But, Court's programmes should not be outstretched on flimsy grounds.

Due to the particular circumstances of the dispute I think that I should certify the application as urgent and I hereby do so.

Dated and delivered at Nairobi this 10th day of March, 2004.

P.K. TUNOI

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JUDGE OF APPEAL

I certify that this is

a true copy of the original.

DEPUTY REGISTRAR