



**IN THE COURT OF APPEAL**  
**AT NAKURU**

**CORAM: GICHERU, SHAH & BOSIRE, J.J.A.**

**CIVIL APPLICATION NO. NAI 263 OF 2001 (143/01 UR)**

**BETWEEN**

**HUBERT L. MARTIN**

**CYRIL ODENDO**

**FACET KHAEMBA**

**CHURCH OF GOD OF PROPHECY ..... APPLICANTS**

**AND**

**MARGARET KAMAR**

**DAMARIS LENAYARA**

**EILEEN KENDAGOR**

**MARY KAPARO (Suing as Trustees of  
RIFT VALLEY MAENDELEO YA WANAWAKE  
ORGANISATION) ... RESPONDENTS**

**Application for stay of execution in an intended appeal  
from the ruling and order of the High Court of Kenya  
at Nakuru (Rimita J) dated 15th June, 2001**

**in**

**H.C.C.C. NO. 473 OF 2000)**

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**RULING OF THE COURT**

This is an application for an injunction brought under **rule 5 (2) (b) of the Rules of this Court** . The dispute between the parties in the application concerns property to which both have certificates of title and each of them claims to have a better title to it than the other. The superior court declined to grant a temporary injunction to the applicants against the respondents on the ground that the applicants lacked the **locus standi** to hold landed property, and also on the ground that the respondents, although their title is later in time to that of the applicant, had a better title to the property in dispute. The applicants intend to appeal against that decision and have lodged a notice of appeal, and pray that they be granted an

injunction pending the lodgment and determination of the intended appeal.

Counsel for the respondents concedes that the intended appeal is arguable and prays that, if we are minded to grant the injunction prayed for then it should be on terms that the **status quo** on the property be maintained pending the determination of the intended appeal. Counsel for the applicants being agreeable the order that commends itself to us is to grant the application dated 15th June, 2001 and order that an injunction issues restraining the respondents by themselves and or their agents from trespassing onto or interfering with parcel **No. NAKURU MUNICIPALITY/BLOCK 16/219** until the final determination of the applicants' intended appeal. The applicant to stop further development of the property within the same period. The costs of the application shall be in the intended appeal.

Dated and delivered at Nakuru this 21st day of February,

2002.

**J. E. GICHERU**

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**JUDGE OF APPEAL**

**A. B. SHAH**

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**JUDGE OF APPEAL**

**S. E. O. BOSIRE**

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**JUDGE OF APPEAL**

I certify that this is a

true copy of the original.

**DEPUTY REGISTRAR**