



**IN THE COURT OF APPEAL
AT NAIROBI
CORAM: OMOLO, SHAH & BOSIRE, JJ.A
CIVIL APPLICATION NO. NAI. 98 OF 2001 (59/2001 UR)**

BETWEEN

MILLICENT NGESO OGILA.....APPLICANT

AND

1. KENYA COMMERCIAL BANK LIMITED

2. DR. PETER W. MASINDE.....RESPONDENTS

**(An application for injunction from the Ruling and the
Order of the High Court of Kenya at Nairobi (Ransley
Commissioner of Assize Esq.) dated 8th March, 2001**

in

H.C.C.C. NO. 276 OF 2001)

RULING OF THE COURT

It is not in dispute that the applicant owes moneys to the first respondent (the Bank). It is also not in dispute that the Bank's power of sale in regard to the suit property, namely plot NO. NAIROBI BLOCK 82/345 of situate on Outer Ring Road, Doonholm Road has arisen. It is also admitted by Mr. Obera for the applicant that a valid notice of sale of the suit property had been served on the applicant by the Bank. It is also clear that the second respondent, Dr. Masinde, has paid to the Bank the sum he bid at the auction sale.

He has signed the requisite agreement for sale after the auction sale was cWoem pldeot endo.t see any arguable point advanced by Mr. Obura that would enable us to grant us to grant to the applicant the orders that he seeks from us namely restraining the Bank from transferring the suit property to the second respondent. The basis of the applicant's case in the superior court was that she did not receive the statutory notice for sale. That is not correct as now quite correctly conceded by Mr. Obura.

In all circumstances this applicant is misconceived. It is dismissed with costs to both respondents.

Dated and delivered at Nairobi 11th day of April, 2001.

R.S.C. OMOLO

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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.