



Case Number:	Civil Case 304 of 2005
Date Delivered:	23 Jun 2005
Case Class:	Civil
Court:	High Court at Nairobi (Milimani Law Courts)
Case Action:	-
Judge:	John Luka Osiemo
Citation:	Complete Video Ltd v Joseph Stephen Muriu & another [2005] eKLR
Advocates:	-
Case Summary:	[RULING] Civil Procedure and Practice - Order XXXIX Rule 12,3 and 9 of the Civil Procedure Rules - Section 3 of the Distress for Rent Act Cap 293 - Section 3A Civil Procedure Act - Distress for Rent - Orders to restrain auctioning, seizure or advertising for sale of plaintiff's assets - Orders granted.
Court Division:	-
History Magistrates:	-
County:	-
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**Civil Case 304 of 2005**

**COMPLETE VIDEO LTD.....PLAINTIFF**

**VERSUS**

**JOSEPH STEPHEN MURIU**

**WAMATU NJOROGE(sued as joint administrator**

**of the Estate of Stephen Flavian Mwangi.....DEFENDANT**

**RULING**

The plaintiff by way of this Chamber Summons expressed to be brought under Order XXXIX Rule 12, 3 and 9 of the Civil Procedure Rules and Section 3 of the Distress for Rent Act Cap 293 and Section 3A Civil Procedure Act seeks orders that the Defendants by themselves, and/or their servants and/or their agents and in particular M/S Cash Crop Auctioneers be restrained from seizing and/or advertising for sale and/or selling the plaintiff's assets proclaimed on 28th January 2005 in any manner whatsoever proceeding with levying of distress and/or further distress for rent allegedly due pending the hearing and final determination of this suit.

The application is premised on the grounds that the plaintiff has reason to believe that the Defendants title to the said property is fraudulent and in any case the same has been transferred to a third party prior to the date of proclamation and thus the landlord – Tenant relationship between the parties thereto had ceased.

Thus the alleged distress for rent was unlawful and unprocedural. The application is supported by sworn affidavit of Stephen Paul Price who has deponed among others that since the Lease Agreement was entered into he has discovered that suit property had a questionable title and that the suit property had been transferred to a third party and decided to stop payment of rent and deposit the payable rent to in an account until the hearing is found or until the hearing and determination of this suit.

Counsel for the applicant submitted that since the respondent did not have legal title to the premises the purported lease was illegal. Secondly that since the premises had been transferred, the landlord – tenant relationship ceased and therefore the levying of distress for rent was unlawful.

The respondent did not attend to oppose the application although the date was taken in court in the presence of both counsels.

The application is allowed in terms of prayer 2 until the hearing and determination of the suit. Costs in the cause. Dated this 23rd day of June 2005.

**J.L.A. OSIEMO**

**JUDGE**



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)