



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

CIVIL SUIT NO. E094 OF 2020

MEGASCOPE HEALTHCARE KENYA LTD.....PLAINTIFF

VERSUS

NATION MEDIA GROUP LIMITED.....1ST DEFENDANT

MUTUMA MATHIU, THE EDITORAL DIRECTOR

NATION MEDIA GROUP LIMITED.....2ND DEFENDANT

EMMANUEL JUMA, THE MANAGING DIRECTOR

NATION MEDIA GROUP LIMITED.....3RD DEFENDANT

DENNIS OKARI.....4TH DEFENDANT

GODWINS AGUTU.....5TH DEFENDANT

RULING

- 1) In this file and in **Nairobi H.C.C. E136 of 2020 Crown solutions Ltd =vs= Dennis Okari and 3 others** this court issued both mandatory and prohibitory orders of injunction against the defendant. Mr. Kiragu Kimani, learned advocate for the defendants urged this court to make an order directing the plaintiff to give an undertaking as to damages.
- 2) The plaintiff’s advocate is of the submission that the court having delivered its ruling is rendered *functus officio*.
- 3) In this case it is apparent that the court did not make an order directing the plaintiff to provide an undertaking as to damages as a condition for the grant of the order of injunction at the time of delivering its ruling.
- 4) It is a discretionary order which the court may make in some cases. The parties did not address this court over the issue at the time of arguing the application.
- 5) The defendants’ advocate urged the court to consider making the order after it delivered its ruling.
- 6) With respect, I agree with the plaintiff’s advocate that the court is rendered *functus officio* in the matter and it cannot go back to the ruling unless a party seeks to review the same which is not the case in the instant application.
- 7) In the end, I decline to grant the oral application.

Dated, Signed and Delivered online via Microsoft Teams at Nairobi this 21st day of May, 2021.

.....

J. K. SERGON

JUDGE

In the presence of:

..... for the Plaintiff

..... for the Defendants