



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. E214 OF 2021

NAIROBI OUTPATIENT CENTRE GULF LTD.....1ST APPLICANT

GRACE WANGARI MUTHUMA.....2ND APPLICANT

VERSUS

NAIROBI OUTPATIENT CENTRE.....1ST DEFENDANT

GRACE WANGARI MUTHUMA.....2ND DEFENDANT

THE KENYA MEDICAL PRACTITIONERS

DENTIST UNION.....3RD DEFENDANT

FURTHER ORDERS AND DIRECTIONS

- 1) When the motion dated 3rd September 2021 came up for interpartes hearing on 23rd September 2021, Miss Amadi, learned advocate holding brief for Mr. Faraji for the plaintiff sought for leave to file a supplementary affidavit in response to the replying affidavit filed by the 2nd respondent.
- 2) The plaintiff further applied for the interim orders issued on 9th September 2021 to be extended to last until the next hearing date.
- 3) Miss Wafula learned advocate who appeared as holding brief for Mr. Kounah for the 3rd defendant stated that he 3rd defendant does not intend to oppose the plaintiff's application.
- 4) Miss Maina learned advocate for the 1st and 2nd defendants did not oppose the plaintiff's application for leave to file a supplementary affidavit. The 1st and 2nd defendants however opposed the application for extension of the interim orders. They argued that the interim ex parte orders has paralysed the operations of the 1st and 2nd defendants without them being given a chance to be heard. In response, the plaintiff argued that the 1st and 2nd defendants are actually using the plaintiff's license and may pose danger to members of public thus damaging its reputation.
- 5) It is clear from the rival submissions that the plaintiff's application for leave to file a supplementary affidavit in response to the 1st and 2nd defendants' replying affidavit is not opposed. Therefore the plaintiff is therefore granted leave to file and serve a supplementary affidavit. The other contentious issue is whether or not to extend the interim orders issued by this court on 9th September 2021.
- 6) I have already considered the oral rival submissions. I have also perused the court record and it is apparent that the 1st and 2nd defendants have filed another application dated 20th September 2021 which is supported by an affidavit sworn by the 2nd defendant dated 17.9.2021 in which they seek for the ex parte orders issued on 9th September 2021 to be stayed and vacated.
- 7) It is stated that the ex parte orders has had the effect of paralysing the operations of the 1st and 2nd defendant despite the plaintiff having given the 2nd defendant its licence to continue operating the health facility. The aforesaid application is scheduled for interpartes hearing on 27th September 2021.
- 8) The plaintiff does not deny the assertion made by the 1st and 2nd defendants that the ex parte order has paralysed their operations.
- 9) I think it is only fair and just not to further extend the interim orders until both parties are heard. Consequently, I direct that the motion

dated 3rd September 2021 be heard together with the motion dated 17/9/2021 on 27th September 2021 by any judge in the Civil Division. I decline to extend the interim orders issued on 9th September 2021.

DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS 24TH DAY OF SEPTEMBER, 2021.

.....

J. K. SERGON

JUDGE

In the presence of:

..... for the Applicant

..... for the Defendant