

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

CIVIL SUIT NO.75 OF 2012

FRANCIS MULAMA OSUNDWA KADIMA PLAINTIFF/RESPONDENT

-VRS-

WEST FM LTD1ST DEFENDANT/APPLICANT

NEWS ANCHOR, WEST FM 2ND DEFENDANT/APPLICANT

NEWS REPORTER, WEST FM 3RD DEFENDANT/APPLICANT

EDITOR-IN-CHIEF, WEST FM 4TH DEFENDANT/APPLICANT

RULING

1. The Motion dated 14th August, 2012 was argued ex-parte on 06th May, 2014 by Mr. Malebe, Learned Counsel for the Defendant/Applicant. The Court reserved the ruling for 12th May, 2012.
2. When I retired to write the ruling and properly perused the pleadings and documents on record, it struck me that the Plaintiff, is one Francis Kadima Advocate of Mombasa who has been known to me during my years in private practice. This is a fact that I had not known at the time I heard Mr. Malebe, ex-parte and was therefore not able to disclose it to him.
3. Although my having known the Plaintiff during my years in private practice does not in any way hamper my independence in adjudicating over and/or making a determination in this matter, I think that having not disclosed this fact to the parties before hearing the same makes it improper for me to make any decision on it before doing so. It is proper that the parties are aware of this fact before I can deal with the matter lest an issue of non-disclosure arises at a later date.
4. Accordingly, I decline to rule on the application and order that the parties appear on a date to be agreed on when they can make their representation on the disclosure.

Orders accordingly.

DATED and DELIVERED at Bungoma this 19th day of May, 2014.

A. MABEYA

JUDGE