



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
CIVIL CASE 229 OF 2012

ARVIN PAHWA PLAINTIFF

VERSUS

PARKROAD INVESTMENTS LTD.....DEFENDANT

R U L I N G

1. The Plaintiff brought this suit to protect his tenancy in the residential suit premises. In the alternative he seeks damages on account of the pleaded unsatisfactory condition of the premises. There are other attendant reliefs sought.
2. Together with the plaint the Plaintiff filed notice of motion dated 28th April 2012 for temporary injunctive relief pending disposal of the suit. That application is scheduled for hearing on 26th July 2012.
3. Upon that application interim injunctive relief was granted *ex parte* on 2nd May 2012. The same was extended *inter partes* on 15th May 2012 to 13th June 2012 when the matter was to be mentioned with a view to recording a settlement.
4. On 13th June 2012 there was no appearance for the Plaintiff. The Defendant's learned counsel informed the court that there was no settlement yet, but that discussions were going on. The application was then fixed for hearing on 26th July 2012. As there was no one to apply for extension of the interim orders, the same naturally lapsed.
5. The Plaintiff has now applied by **notice of motion dated 22nd June 2012** for an order that the interim orders granted on 2nd May 2012 "be extended until 26th July 2012 when the Plaintiff's application dated 21st April 2012" shall be heard. The Defendant has opposed the application.
6. I have read the supporting and opposing affidavits. I have also considered the submissions of the learned counsels.
7. The Plaintiff's leaned counsel was late in coming to court on 13th June 2012 by only a few minutes. Given the short history of this matter, it appears likely that the Defendant would not have opposed extension of the interim orders had there been someone to seek such extension.

8. One thing is certain. Unless the interim injunction is revived and appropriately extended, the Plaintiff's pending application (and possibly the suit itself) will have been defeated unheard. That will not be just.

9. The technicality that the Plaintiff is seeking to extend an order that has lapsed can be cured, in the interests of justice, by issuing an appropriate order. That order, which I hereby give, is that the interim injunction granted on 2nd May 2012 and which lapsed on 13th June 2012, is hereby reinstated and extended to 26th July 2012 upon the following conditions-

(i) The Plaintiff shall pay to the Defendant costs of the present application, hereby assessed at KShs 10,000/00, within fourteen (14) days of delivery of this ruling.

(ii) The Plaintiff shall pay all due rent as and when it falls due as per the tenancy agreement between the parties.

10. In default of any one of the two conditions above the interim injunction, now reinstated and extended, shall lapse upon an order sought and granted in that behalf.

11. Those will be the orders of the court.

DATED AT NAIROBI THIS 25TH DAY OF JUNE 2012

H.P.G. WAWERU
JUDGE

DELIVERED AT NAIROBI THIS 26TH DAY OF JUNE 2012