



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Civil Suit 867 of 2009

GEORGE MAINA KINGORI.....1ST PLAINTIFF

BRITE INTERNATIONAL LTD.....2ND PLAINTIFF

VERSUS

BANK OF BARODA (K).....1ST DEFENDANT

SPORTLIGHTINTERCEPTS (K) LTD.....2ND DEFENDANT

RULING

This is an application for a temporary injunction restraining the Defendants from disposing of or in any way alienating the Applicant's property comprised in **LR. No. 209/10530/959** pending the hearing and determination of this suit. The application is brought by a Chamber Summons dated 26th November, 2009 and taken out under **Order XXXIX Rules 1, 2, 2A, 3, 5 and 9** of the (old) **Civil Procedure Rules**.

The application is supported by the annexed affidavit sworn by the 1st Plaintiff on 26th November, 2009 and is based on the grounds that the 2nd Applicant has settled all amounts owing to the 1st Respondent; that the Respondents herein are clogging the 1st Applicant's equity of redemption; and that the 2nd Respondent is a limited liability company which cannot hold an auctioneer's licence.

Section 14(2) of the Auctioneers Act is in the following words-

“A licenced auctioneer shall carry on business in his own name or in the name of a firm all of whose partners are licensed auctioneers.”

These words clearly envisage that a licensed auctioneer shall be a human person and not a body corporate. To that extent, the 2nd Respondent lacks the locus standi to transact business as an auctioneer, and any attempt to do so would be illegal.

In order to pre-empt an illegality, I find that the Applicant has made out a prima facie case with a probability of success, and I accordingly grant a temporary injunction in terms of prayer 3 of the application by Chamber Summons dated 26th November, 2009.

Costs will be in the cause.

The Applicant to file and serve an undertaking as to damages within 10 days.

L. NJAGI
JUDGE

DATED and **DELIVERED** at **NAIROBI** this 20th day of November, 2012.

MUTAVA
JUDGE