



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

Civil Case 32 of 2008

BHUPENDRA TAILA

JITENDRA TAILOR T/A SOY SAFARI RESORT.....PLAINTIFF

VERSUS

SOY COUNTRY CLUB (1987) LTD.....1ST DEFENDANT

ASIS HOTEL LIMITED.....2ND DEFENDANT

RULING

(Application for injunction 14th April 2008)

I. Introduction:

1. The plaintiff herein alleges that he entered into a lease with the 1st defendant for his (defendant No.1)'s land LR Eldoret LR 12186. He paid 3.4 Million and daily rent of Kshs. 20,000/- per month. The period and item of this lease was for 8 years (15.05 to 30.4.13) before the lease expired and unknown to the plaintiff, the 1st defendant allegedly sold the whole parcel of land to the 2nd defendant. This property was transferred to the 2nd defendant.
2. The plaintiff filed this application of 14th April 2008 for an injunction to restrain interference of his occupation of the land by the defendants and from his being evicted.

II. Application dated 14th April, 2008

3. The 1st and 2nd defendant entered this file by way of replying affidavit.
4. The 1st defendant stated that the lease entered into between the plaintiff and the 1st defendant was never registered. It therefore had no force of law and did not amount to a lease to be enforceable.
5. That the amount that the 1st defendant was to be paid was not Kshs. 3.4 million but 10,320,000/- as this had not been done, there was a breach by the plaintiff.
6. The 2nd defendant claims he is a stranger here. I did note the plaintiff filed an amended plaint.

III. Findings.

7. That the said plaintiff herein has shown he had a lease. There was also admission by the 1st defendant that a lease did exist.

8. Though this lease may not have been registered the aspect of a contract between the parties did exist. This is a prima facie indication that the said plaintiff has made out a case to show that there may be irreparable loss to his business.
9. The court herein grants the application for injunction as prayed against both the 1st and 2nd defendant till the finalization of this suit.
10. The costs be to the plaintiff to be paid by defendant 1 and 2.

Dated this 29th day of April 2010 at Eldoret

M.A. ANG'AWA

JUDGE

Advocate

Angu Kitigin Advocate instructed by the Firm of M/s Angu Kitigin & Company Advocate
for the Applicant

N. Marube advocate instructed by the Firm of M/s Marube & Company Advocate
for the 1st Defendant

R. Omboto advocate instructed by the Firm of M/s Rioba Omboto & Company Advocate
for the 2nd Defendant