

JAMES GICHAIYA MWANGI PLAINTIFF

VERSUS

KENYA COMMERCIAL BANK DEFENDANT

R U L I N G

Application by Notice of Motion dated 7/5/2009 brought under **Section 3A, 80, 75 and 79G, Civil Procedure Act, Cap.21 and Order XLIV Rule 1 (1), Rule 6, Order L Rule 1, Civil Procedure Rules.** This motion is seeking orders for review of this court's order made on 22/7/2008. The order made arose after application dated 26/3/08 in presence of all parties.

The court granted prayer 3 of that application which prays for:-

“Court be pleased to grant the plaintiff, an order for injunction against the defendant, its agents, employees or through whomsoever from alienating, advertising for sale, selling or by whatever other means interfering with the plaintiff's suit premises known as Title No. Kutus Township/92 until hearing and determination of this application or further orders of the court.”

The hearing and determination of this application came to an end on 22/7/08 when the ruling was delivered. Therefore, the injunction was “until further orders of the court.” It is not therefore correct to state that the orders granted were not prayed for. However in extracting the order, the words “until further orders of the court” were omitted. This would make the injunction valid until court order discharging the same or the determination of the suit which is the purpose of interlocutory injunction.

I therefore vary the order made on 22/7/08 by adding the said words under **Order 1** thereof by adding “until further order of the court.” The application is allowed to that extent. Costs of this application shall be in the cause.

Orders accordingly.

DATED, SIGNED and DELIVERED at Nairobi this 26th day of October 2009.

JOYCE N. KHAMINWA

JUDGE