



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 496 of 2007**

**JOSEPH KONZOLLO MUNYAO .....PLAINTIFF**

**V E R S U S**

**1. LINK PUBLISHERS LIMITED**

**2. TOM OSCAR ALWAKA .....DEFENDANTS**

**R U L I N G**

This is an application by the Plaintiff (by chamber summons dated 18<sup>th</sup> June, 2007) seeking the main order that the Defendants be restrained from publishing, distributing or offering for sale the contents of the No. 3 issue of the “Weekly Citizen” publication of 18<sup>th</sup> to 24<sup>th</sup> December 2006, Volume 10 titled “**Mbooni voters now turn against Munyao**” or any other defamatory matter of and concerning the Plaintiff. The application is brought under Order 39 rules 1, 2 and 3 of the Civil Procedure Rules (the Rules).

The grounds of the application as they appear on the face thereof are:-

- (a) That the Defendants have published or caused to be published and continue to publish defamatory matters of and concerning the Plaintiff.
- (b) That the Defendants have through their individual or collective agents, servants or conspirators ran copies of the article concerning the Plaintiff from the aforesaid publication and are distributing it in the Plaintiff’s constituency.
- (c) That unless restrained the Defendants will continue to publish, distribute and offer for sale noxious matters of and concerning the Plaintiff.
- (d) That it is just and equitable that the injunctive order sought be granted.

There is a supporting affidavit sworn by the Plaintiff.

The Defendants were duly served with the application. They did not file any papers in response; nor was there any appearance for them at the hearing of the application.

As the application is unopposed, I see no reason why I should refuse it. The Plaintiff has complained of continued injury to himself on account of repeated publication of the defamatory material forming the basis of the suit. It is just that further injury be avoided. I will therefore grant the application as sought in prayer No. 3 thereof. Costs of the application shall be in the cause. There will be orders accordingly.

**DATED AT NAIROBI THIS 20<sup>TH</sup> DAY OF AUGUST, 2007**

**H. P.G WAWERU**

**J U D G E**

**DELIVERED THIS 24<sup>th</sup> DAY OF AUGUST, 2007**