

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Civil Case 1062 of 2005 (1)

JOHN WARD.....PLAINTIFF

VERSUS

STANDARD LIMITED.....DEFENDANT

RULING-B

The defendant had also brought an application by way of Chamber Summons under Order I Rule 10(2) and 13 of the Civil Procedure Rules and Section 3A of the Civil Procedure Act seeking orders that Mr. Pravin Bowry be added as the 2nd Defendant in this suit.

The application is based on the grounds that the article ran on the defendant's News Paper on 5th May 2005 titled: IN THE MATTER OF THE DEATH OF JULIE WARD which is the genesis of this defamation suit, was an advertiser's Announcement by One Pravin Bowry on the murder and trial of the late Julie Ward and the said Mr. Pravin Bowry had agreed to be solely responsible, that the presence of the said Mr. Pravin Bowry before this court is necessary to enable the court to effectually and completely adjudicate upon and settle all the questions involved in the suit herein. Mr. Saende, counsel for the defendant submitted that prior to the publishing of the said advertiser's announcement, the said Pravin Bowry took out an indemnity form and undertook to be solely responsible for the contents of the advertisement. He produced the said indemnity form NMI.

The application is opposed by counsel for the plaintiff on the ground (i) that the said agreement for indemnity is unlawful and/or illegal on the ground that the said publication contained allegations which admittedly were rumours of and concerning the plaintiff's conduct; (ii) that the said rumours were false and defamatory and that by reason of the matters pleaded or stated in (i) and (ii) above at the time of such publication the Defendant knew or ought to have known that the article was defamatory and did not reasonably believe that there was a good defence to any action brought against it.

According to counsel for the plaintiff the instant suit is so plain and obvious that there is nothing to go for trial and therefore there is absolutely no need to join the said Pravin Bowry as a 2nd Defendant.

With due respect to counsel, the defendant having pleaded justification that the said published words were true in substance and in fact, he has also pleaded fair comment and privilege, the rest is for the trial judge to determine after full trial and the court has so determined.

For the end of justice it is only just and fair that the said Pravin Bowry be joined as the 2nd Defendant so that all the issues in this suit are brought before the court for determination. The defendant's application is allowed in terms of Prayer 1 of the Chamber Summons dated 30th November 2005.

DATED and delivered at Nairobi this 5th day of 2006.

J.L.A. OSIEMO

JUDGE