



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

**Civil Case 436 of 2005**

**MOHIDIN HAJ MOHAMED .....PLAINTIFF**

**VERSUS**

**MOHAMED AHMED ABDIKADIR.....1<sup>ST</sup> DEFENDANT**

**ABDIKADIR OMAR ALI.....2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

By a plaint filed in court on 18<sup>th</sup> April, 2005, MOHIDIN HAJ MOHAMMED sued the 2 defendants jointly and severally, seeking general damages for defamation, exemplary damages for spreading falsehoods, and costs of the suit. The cause of action arose at the UNHCR, Kakuma Refugee camp where all the 3 parties live.

The plaintiff alleged that the defendants wrote a defamatory letter to the O.C.S., Kakuma refugee camp, and to the Barvannes Somalia Community in the refugee camp titled, “**SUBJECT CRIMINAL PERSONS/culprits in the camp**”.

The defamatory words/the contents of the letter are reproduced in para 4 of the plaint.

The defendants though served according to the affidavit of service in the file, did not enter appearance or file a defence. A request for judgment was entered.

The plaintiff, a refugee runs a small hotel at Kakuma Refugee camp. He contended that the letter written by the 2 defendants about him was not true, but it was nevertheless written to the OCS Kakuma police station, UNCHR Security and LWF Security. That investigations carried out revealed that it was the 1<sup>st</sup> defendant who wrote it, and took it to the police station and it was the police who gave it to the plaintiff, but they only gave him a copy, not the original letter.

The plaintiff said the letter alleged that he was an arsonist who had a knife and wanted to kill people and also destroyed the tap for drinking water.

The plaintiff was investigated by police, but in the end, he was not charged with any offence.

The letter was signed by the 1<sup>st</sup> defendant as the Chairman of the Barawa Community, but the 2<sup>nd</sup> defendant threatened the plaintiff in front of the elder.

The plaintiff produced the “**defamatory letter**” dated 21.2.2005, as an exhibit in court, as he claimed

damages from the act of the 2 defendants which he said “**spoilt**” his name amongst the elders of his community.

The plaintiff’s evidence was not challenged as the defendants though served, did not enter appearance or file a defence. In the circumstances, the plaintiff’s evidence remained uncontroverted. Further, I accepted the photocopy of the “**offending evidence**” adduced in court as it was not challenged by the defendants.

The plaintiff demanded apology from the defendants, and a requirement that they withdrew the defamatory letter. But the defendants neither apologized nor withdrew the offensive letter.

The plaintiff prayed the court for general damages, exemplary damages and costs of the suit.

As the defendants did not defend this suit on defamation, I accept the plaintiff’s evidence and from it, find judgment for the plaintiff against the defendants jointly and severally.

Considering the matter at hand, I proceed to award the plaintiff a sum of Kshs.200,000/= general damages, and a further sum of Kshs.50,000/= exemplary damages.

That is a total of Kshs.250,000/= plus interest and costs.

Dated at Nairobi this 1<sup>st</sup> day of December, 2006.

**JOYCE ALUOCH**

**JUDGE**