



IN THE HIGH COURT OF KENYA AT NAIROBI

Civil Suit 430 of 2004

DAVID CHEGE MWANGI ..... PLAINTIFF

VERSUS

MUGAMBO WA GACHOCHO CO. LTD ..... DEFENDANT

RULING

The Applicant seeks an order to restrain the Defendant from changing its name or status from private to public.

The Applicant brings this application under O.39 rules 1 and 2. As I pointed out to Mr. Kuria the provision of O.39 rule 1 do not apply. Mr. Kuria agreed there was no intended breach of contract but relied on “*other injury*”.

The Plaintiff seeks an order for special damages, general and Punitive damages and a declaration relating to the membership and status of various officers of the Company. The change of the Company’s names cannot affect any prior liability it has nor does the change of the Company’s status from private to public. I cannot see any evidence of “*other injury*.” These words mean that the act complained of is likely to cause injury to the Applicant. I cannot see that the changes to be effected by the company can in anyway affect the Applicant’s right. There is no evidence that any of the company property will be lost as a result of the change.

In the result I dismiss this application with costs to Respondents.

**Dated and delivered at Nairobi this 22nd day of June 2005**

**P.J. RANSLEY**

**JUDGE**