

The case of Kisya Investment Ltd. – vs- K.F. Corporation is a case where the source of information was not given. The case of Joyena E.A. Ltd – vs- Sylvester Onyango is a case where a verifying affidavit was sworn even before the plaint was made and signed. I distinguish these two cases, as in our particular circumstances; the source of information was given.

Therefore I hold that the verifying affidavit is not defective.

On whether the applicant has given grounds justifying the granting of the orders of a temporary injunction, I am afraid he has not. He has not established which particular portion of the land that he has a specific ownership rights as a person, he has not established that there was an there will continue trespass by the respondent on that land and that he will suffer irreparable loss if the order for temporary injunction is not granted. It appears to me that this is a matter where the applicant thinks that the land, which is currently registered in common, should be subdivided, which can be done. However I do not think that this is a case justifying my exercise of discretion to grant a temporary injunction. I therefore decline to grant the orders prayed.

In the result, I dismiss this application with costs to the respondent.

Dated and delivered at Eldoret this 28th day of April 2004.

George Dulu

Judge

(I certify this a true copy of the original)

DEPUTY REGISTRAR