

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

OF KISII

Misc Civ Appli 107 of 2004

MONICAH GESARE OBURU APPLICANT

VERSUS

NELSON OMBEGO RESPONDENT

RULING:

Applicant's application is for grant of a mandatory interlocutory injunction compelling the respondent to accept the applicant's green tea leaves from plot No. West Mugirango/Bosamaro East/1083 until the hearing and determination of the suit.

The applicant told court that he is a registered tea grower with the respondent company. He has 4,000 tea bushes and he delivers his tea to the respondent. His grower's No. is NS 600034. He earns his income from tea. On 31/5/04 the respondent wrote to him and he was expelled from the company.

The application was opposed. The respondent stated that the board of directors met and discussed the applicant's behaviour and he was expelled. His co-growers were dissatisfied with him. He caused a buying center to be deserted.

I have considered the application and the objection. The application has no merit. The applicant has a contract with the respondent. There are conditions to be met. The issue seems to have been exhaustively dealt with before the applicant was expelled. The court cannot now force the respondent to accept the applicant back if his co-growers are dissatisfied with him.

Further as stated by counsel for the respondent any loss the applicant might suffer can be adequately compensated by way of costs. The respondent is a busy company of means and it would not be difficult to pay any damages awarded. Thus the applicant will not suffer any irreparable loss.

In the circumstances the application is dismissed with costs.

KABURU BAUNI

JUDGE

30/7/2004