

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CIVIL CASE NO.107 OF 2004

OMWANDO MANYINSA PLAINTIFF

VERSUS

NYANSIONGO TEA FACTORY CO. LTD..... DEFENDANT.

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.

Applicant told court that he is a registered tea grower with the respondent company. He has 4,000/= tea bushes and he deliver 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 centre to be closed.

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 exclusively 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 buying 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.

30/7/04