



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT KISUMU**

**CAUSE NO. 21 OF 2018**

*(Before Hon. Justice Mathews N. Nduma)*

**WILFRED NYABUTO RIANGA.....CLAIMANT**

**VERSUS**

**COUNTY PUBLIC SERVICE BOARD, KISII COUNTY....1<sup>ST</sup> RESPONDENT**

**COUNTY SECRETARY, KISII COUNTY.....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

1. Claimant filed an application dated 18<sup>th</sup> January, 2018 seeking to stop operationalization of the letter of dismissal from service dated 13<sup>th</sup> December, 2017. Interim orders were granted on 24<sup>th</sup> January, 2018. Replying Affidavit was filed on 12<sup>th</sup> February, 2018. The Claimant filed written submissions on 1<sup>st</sup> July, 2018 whereas the Respondent filed submissions on 17<sup>th</sup> October, 2018.
2. Upon consideration of the deposition by the Claimant and the Respondent and the submissions on the disputed facts and points of law by the parties, the court is satisfied that the applicant has not satisfied the requirements for grant of an interim injunction set out in the case of **Giella v Cassman Brown Limited** in that a prima facie case with probability of success has not been made out and that the balance of convenience is in favour of vacating the interim order granted on 24<sup>th</sup> January, 2018. By the time the application was filed, the Claimant/Applicant had already been dismissed from his employment with effect from 1<sup>st</sup> February, 2017.
3. The merits and de-merits of the case may only be canvassed and determined upon hearing the main suit.
4. Accordingly, the application is dismissed. The matter to proceed to full hearing on the merits.

**Ruling Dated and Signed and Delivered in Kisumu this 17<sup>th</sup> day of January , 2019**

**Mathews N. Nduma**

**Judge**

**Appearances**

N. E. Mogusu & Associates for Claimant

Anne Babu & Co. Advocates for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents

Chrispo – Court Clerk