



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 272 OF 2012

CHILD WELFARE SOCIETY OF KENYA

REGISTERED TRUSTEES..... PLAINTIFF

- V E R S U S -

NATION MEDIA GROUP.....1ST DEFENDANT

T/A NATION NEWSPA..... 2ND DEFENDANT

RULING

1. Nelson Harun Muturi P/A Nelson Harun & Company Advocates the plaintiff filed a compensatory suit against the Hon. Attorney and Nilly H. Kanana the 1st and 2nd defendants vide the plaint dated 14.11.2014 whereof he sought for judgement in the following terms:

a. General, exemplary and aggravated damages for libel and/or malicious injurious falsehoods arising from the statements published by the defendants as pleaded.

b. A declaration that the directive by the defendants to The International Livestock Research Institute to pay the plaintiff's client directly after the plaintiff had negotiated a settlement of the claim arose a defamatory meaning by way of innuendo that the plaintiff was untrustworthy and thus undeserving of payment on behalf of his client.

c. A declaration that the directive by the defendants to The International Livestock research Institute to pay the plaintiff's client directly in disregard of the plaintiff's client's written instructions violated the Advocate-Client relationship and was thus illegal, contemptuous and unlawful

d. A declaration that the sum total of the defendants impuned actions directed at the plaintiff by the defendants grossly violated the plaintiff's constitutional rights, were oppressive, amounted to abuse of public office, abuse of authority and abuse of power calling for an award of exemplary damages on the footing of aggravated damages.

e. Costs of the suit.

f. Interest on damages and costs.

g. Any further or other relief this Honourable Court may deem fit and just to grant.

2. The plaintiff has now taken out the motion dated 8th April 2016 seeking for leave for entry of judgement in default of appearance and defence against the defendants. The motion is supported by the affidavit of Nelson Harun Muturi.

3. The motion is exparte in nature. I have considered the grounds stated on the face of the motion plus the facts deponed in the supporting affidavit. It is the submission of the plaintiff that the summons to enter appearance plus the plaint together with the witness statements, and list of documents were served upon both defendants on 27th November 2014. It is the submission of the plaintiff that despite service having been effected upon the state law office, the defendants failed to enter appearance nor file a defence. The plaintiff therefore seeks for an order of entry of judgment in default of appearance and defence vide the motion dated 8th April 2016. The aforesaid motion was served but no response was filed, therefore the motion remains as unopposed.

4. I have considered the grounds stated on the face of the motion and the facts deponed in the supporting affidavit. It is apparent from the documents annexed to the supporting affidavit that the state law office acknowledged receipt of service by affixing its official stamp on the face of the plaint and the summons to enter appearance. Despite acknowledging receipt of service, the Hon. Attorney General failed to enter appearance nor file a defence. In the circumstances I find the motion dated 8.4.2016 to be well founded. It is allowed as prayed. The suit to be fixed for hearing as a formal proof.

Dated, Signed and Delivered in open court this 9th day of September, 2016.

J. K. SERGON

JUDGE

In the presence of:

..... for the Plaintiff

..... for the Defendant