

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO. 272 OF 2016

PAULINE WANJIRU KINYANJUI APPELLANT

VERSUS

REAL PEOPLE KENYA LIMITED DEFENDANT

RULING

The appellant filed an application for injunction in the lower court. The application was dismissed. Following that dismissal, she filed another application to stay the ruling of the lower court. That application I am told is still pending before the same court.

There is yet another application before me for a stay order of the same ruling by the lower court. Additionally, the appellant has sought an order of injunction against the respondent or his agents to restrain it from dealing with motor vehicle registration No. KBU 415W Toyota Hilux to her detriment.

The pleadings relating to the matter in the lower court have not been annexed and it is not easy for this court to tell what other orders were sought by the appellant other than the injunction orders. The fact that there is a pending application seeking the same orders in the lower court disentitles the applicant from getting any reliefs from this court. Unless there are new facts not brought before the court, in the earlier application which was dismissed, the applicant cannot file a fresh application. This would lead to abuse of the court process.

From the little I can decipher after reading the memorandum of appeal filed herein, the dispute between the two parties is based on interest payable by the appellant to the respondent on some monetary transaction.

The appellant has a forum in the lower court which she may exhaust if she so wishes before coming to this court in the event the lower court does not decide in her favour. I find that the present application is misplaced and lacks merit. The same is therefore dismissed with costs to the respondent.

Orders accordingly.

Dated, signed and delivered at Nairobi this 10th Day of November, 2016.

A. MBOGHOLI MSAGHA

JUDGE