

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 3608 OF 1988

RENGUTI GIKAMBURA HOTEL LTD.....PLAINTIFF

VERSUS

HARUN GATOBO NJUGUNA.....DEFENDANT

R U L I N G

This is an application by way of Chamber Summons seeking a review of this courts order of 20th January, 1998 and all consequential orders thereunder. There is also a prayer that all proceedings in this suit be stayed pending the determination of this application.

The said application is supported by an affidavit sworn by one Francis Kiarie Ndirangu the Managing Director of the plaintiff company. The application is opposed and there is a replying affidavit sworn by Harun Gatoho Njuguna the defendant together with grounds of opposition. Both counsel have also made their respective submissions.

The cited provisions of law include section 3A of the Civil procedure Act and Orders 9B Rule 8 and 44 Rule 1 of the Civil Procedure Rules. Most of the allegations in respect of the proceeding in court can be proved wrong as the record speaks for itself. There is no way this court could have omitted to record the request of the applicant's Managing Director if at all it was made in court. The truth of the matter is that no request was made at all. Secondly, the plaintiff is a Limited Liability Company. It could not act in person.

I have addressed the issue of review vis a vis the ruling of 20th January, 1998. With respect, I find nothing in the ruling that calls for a revisit under the provisions of order 44 Rule 1 of the Civil Procedure Rules. It is my view that the ruling was based on the facts before the court and the merits therein. I am unable to grant the orders sought.

Accordingly, the application is dismissed with costs.

Order accordingly.

Dated and delivered at Nairobi this 5th day of June, 1998

A. MBOGHOLI MSAGHA

JUDGE

Mr Gathuara for respondent

No appearance for applicant.