

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO. 886 OF 1998

SHABANA SUPERMARKET LTD.....PLAINTIFF
VERSUS
GILAD - ALL FINANCE LTD
& 3 OTHERS.....DEFENDANT

R U L I N G

This is an application for review brought by the first defendant under Section 80 of the Civil Procedure Act and Order 44 Rules 1 & 4 of the Civil Procedure Rules. The application is opposed and both learned counsel have addressed the court on the application. On 8th may, 1998 this court gave an injunction order in favour of the plaintiff against all the defendants. It is that order that the 1st defendant has asked the court to review.

I appreciate and understand the thrust of the submissions of Mr Mutuli, the learned counsel for the first defendant/applicant. He has taken the court through the relevant authorities to assist the court in this matter. My view however is that, if I were to revisit the order I made after listening to the submissions in the injunction application, it would appear as if I am sitting on appeal of my own order. I believe on the facts of the case I am functus officio and do not deem it necessary to address the merits of the application before me otherwise prejudice may result.

Accordingly the application is dismissed with costs. Order accordingly.

Dated and delivered at Nairobi this 30th day of July, 1998

A. MBOGHOLI MSAGHA

JUDGE