



REPUBLIC OF KENYA

IN THE COURT OF APPEAL
AT NAIROBI

(CORAM: AKIWUMI, PALL, J.J.A. & BOSIRE, AG.J.A.)
CIVIL APPLICATION NO. NAI 81 OF 1997 (UR. 36/97)

BETWEEN

FARMERS INDUSTRIES LIMITED APPLICANT
AND
1. KENYA COMMERCIAL FINANCE CO. LTD
2. P. G. WAWERU T/A IDEAL AUCTIONEERS RESPONDENTS

(An application for Injunction pending intended Appeal
from the Ruling of the High Court of Kenya at
Nairobi (Justice Mbiti) dated 13th March, 1997
in

H.C.C.C. NO. 23 OF 1997)

RULING OF THE COURT

The application is for injunction on the grounds that there are arguable points to be canvassed at the appeal and that the appeal would be nugatory if the appeal succeeds. We see some merit in the first ground, but since the applicant did not in his plaint seek the equitable relief of specific performance, it would seem to us that it can not be said that the appeal if successful, would be nugatory, damages would be sufficient remedy in the particular circumstances of this matter.

The order that therefore commands itself to us, is to dismiss this application with costs. It is so ordered.

Dated and delivered at Nairobi this 28th day of April, 1997.

A. M. AKIWUMI

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JUDGE OF APPEAL

G. S. PALL

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JUDGE OF APPEAL

S. E. O. BOSIRE

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AG. JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR.