

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Winding Up Cause 1 of 1986

in The Matter of Renguti Gikambura Hotel Company Ltd and

In The Matter of Companies Act (CAP 486 –Laws of Kenya

Ruling.

According to the Petition of Mr Harun Gatehe Njuguna in this winding-up cause, RENGUTI GIKAMBURA HOTEL CO LTD (herein after to be referred to as “The Company”) was incorporated on 17th May 1984. The subscribers to the Company, who are also its directors, are the Petitioner and Messrs Francis Kiarie Ndirangu and Daniel Njenga Kamau. The Petitioner alleges that Mr Ndirangu who acts as the Managing Director of the Company is running the affairs of the company as if he is the sole proprietor at the exclusion of the other two directors. In the circumstances the petitioner feels that the present running of the company is oppressive to himself and the other members, and that it would be just and equitable to have the company wound up in accordance with the relevant provisions of the Companies Act, Cap 486, Laws of Kenya.

Hence his Petitioner in this cause the application before me now is contained in the chamber summons dated 26th February 1986 in which the petitioner prays for various reliefs including a Company injunction to restrain Mr Ndirangu from dealing in any manner with the property and the premises of the Company till the determination of this cause.

When however the chamber summons came before me for hearing on 18th March 1986 Mr Kiania Njau for the respondent raised a preliminary objection. The ruling relates to the preliminary objection.

Mr Kiania Njau argues that under O.xxxix v.2 application such as this issue be supported by only one affidavit and no more or several.

Mr Kiania Njau relies on the decision of Chanan Singh and in ABDUL AZIZ SULEMAN v. SOUTH BRITISH INSURANCE CO LTD 1965 E.A. 66.

I agree with Mr Kiania Njau’s contentions, and I must uphold his preliminary objection. But that is as it relates to the prayer for an injunction as is contained at prayer NO 1 in the chamber summons. In other words, the preliminary objection succeeds only on the question of an injunction, for O. deals with injunctions only. It follows, therefore, that the Petitioner / Applicant may proceed with the rest of his prayers (i.e. 2,3,4, and 5) of his chamber summons of 26/2/86.

April 29, 1986

Mbaya, J