



**Ndeti v Bytedance Ltd & another (Civil Suit E012 of 2024)
[2025] KEHC 15053 (KLR) (7 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15053 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CIVIL SUIT E012 OF 2024
NIO ADAGI, J
OCTOBER 7, 2025**

BETWEEN

FRANCIS MUTUA NDETI PLAINTIFF

AND

BYTEDANCE LTD 1ST DEFENDANT

TIKTOK, INC 2ND DEFENDANT

RULING

1. The Plaintiff/Applicant filed a Notice of Motion dated 28th June 2024 under the provisions of Section 1, 1A, 1B, 3, 3A, 63 (e) of the *Civil Procedure Act*, Cap 21 , Order 40 Rules 1, 2,3 & 4 (1) of the Civil Procedure Rules, 2010. The prayers before this court for determination are:-
 1. ...Spent
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 3. That pending the hearing and determination of this suit this Honourable Court be pleased to grant the Plaintiff/Applicant a temporary injunction restraining the Defendants/Respondents whether by themselves, their agents, servants, assigns, successors or otherwise howsoever from hosting, enabling, circulating, publishing, disseminating or howsoever distributing any and all content on, respecting, touching, and/or concerning the Applicant through the TikTok account handle TikTok@elizaaXXX or any other account within the social media platform known as TikTok, or any other platform.
 4. That the Honourable Court be pleased to Order that the TikTok account handle in the style of TikTok@elizaaXXX be pulled down, shut, disabled and /or permanently deactivated from the platform commonly known as TikTok or any other social media platform.



5. That the Honourable Court be pleased to Order that the Respondents do forthwith provide the Applicant, through his counsels, with the identity and legal status of the TikTok account holder responsible for the malicious publication under the handle TikTok@elizaaXXX or any other such offending account, with particular emphasis to his/her name, national identity card number, registered address (including email and postal) and the registered telephone contacts.
6. . THAT such further or other orders as are appropriate for the effective administration of justice be issued.
7. That the costs of this application be met by the Respondents.
2. The application is premised on the grounds on the face of the application and the supporting affidavit of Fr. Francis Mutua Ndeti sworn on 28th June 2024 in which he depones that he is an ordained Catholic Priest having been so ordained on 31st May 2007 and presently serving as a Parish Priest at the King Catholic Church, Masii, Machakos County, Kenya.
3. That as a Catholic Priest, he has taken various vows in accordance with the dictates of the church and his faith, one such vow being a vow to celibacy.
4. That flowing from the vows aforesaid and on account of the nature of his chosen vocation, he is obligated to remain celibate and detached from any emotional relationships that have any sexual connotation, however remote. Additionally, the Applicant is not permitted to engage in coitus or get married, and should this happen, then the Applicant must quit his calling as a priest.
5. On or about the 3rd day of June, 2024, the Applicant's attention was drawn by one of the Christians in church to horrendous video clips and images posted in TikTok under the handle TikTok@elizaaXXX which indicated that he was married or in a romantic relationship with a female who was well-known to the priest.
6. That upon enquiring from the person posted in the publication as the Applicant's consort, Elizabeth Wanjiru, she was equally shocked by the libelous post allegedly uploaded by her. Her TikTok handle is different from the one used in publication of the said libel and it was clear that whoever had uploaded the said publication was hiding under the privilege of the anonymity given to TikTok users by the Respondents in pursuit of their business interests.
7. The impression given by the said publication was that the Applicant had broken his ecclesiastical and priestly vows and had taken a wife. The publication further implied that he was using hallowed and sacrosanct church premises to carry out the alleged nefarious acts of debauchery and immorality. The overall intent and thrust in the publication was that the Applicant was a man of loose moral character and was unworthy of his status as a priest.
8. According to the Applicant, the publication is completely and utterly false and malicious and was without any basis, factual or reasonably discernible from the character and conduct of the Applicant and was/is calculated at dragging/ bringing his name in to public odium and disrepute, thereby lowering his dignity and image in the eyes of right-thinking members of society, more so the flock within Christ the King Parish and the Church as a whole.
9. The Applicant avers that he has suffered, and continues to suffer, loss and damage on account of the malicious and defamatory publication and has been greatly injured in his repute and standing, both in the eyes of the Church faithful and society at large and that the Applicant is undergoing great mental and psychological anguish that has impacted negatively on his health.
10. That despite writing to the Respondents and requesting and or demanding that



- a. the offending publication be pulled down from the Respondents' social media platform, TikTok;
 - b. the fictitious/ fake account under the handle TikTok@elizaaXXX be shut down or be disabled; and
 - c. the Respondents do provide to the Applicant the details and identity of the account holder registered under the handle TikTok@elizaaXXX, the Respondents have refused, ignored and/ or neglected to heed to his plea, thereby exacerbating his torment and suffering.
11. That the continued circulation of the offending publication is a source of immense pain and anguish on the part of the Applicant and it is the duty of the Court to protect and shield the Applicant from any further damage.
 12. That it was/is the responsibility of the Respondents to ensure that the content carried out in their application/ platform is not harmful to members of the public, and in particular, to the Applicant. By permitting and hosting publication injurious to the Applicant, the Respondents abdicated their responsibility and statutory duty of care to the Applicant.
 13. This court has had the opportunity to read through the Applicant's application, the authorities cited, the supporting affidavit and the annexures thereto.
 14. This court has also seen and read the contents of the affidavit of service sworn by Chris Ndolo Mutuku on 22nd July 2024 and is convinced that the Respondents were properly served with the pleadings filed and the court order issued in this matter hence they are aware of the same. Despite the said service, the Respondents have not filed any response on the matter.
 15. Although, the Applicant's application is unopposed, this court will nonetheless proceed to determine whether the Applicant has met the burden for the injunction sought. The conditions for grant of an injunction were laid down in the case of *Giella v Cassman Brown Co. Ltd* 1973 E.A. 358 thus;

“First, an applicant must show a prima facie case with a probability of success. Secondly, an interlocutory injunction will not normally be granted unless the applicant might otherwise suffer irreparable harm which would not adequately be compensated by an award of damages. Thirdly, if the court is in doubt, it will decide an application on a balance of convenience.”
 16. Similarly, in the case of *Nguraman Limited v Jan Bonde Nielsen & 2 Others* [2014] eKLR the Court of Appeal held that:

“In an interlocutory injunction application, the applicant has to satisfy the triple requirements to;

 - (a) establish his case only at a prima facie level,
 - (b) demonstrate irreparable injury if a temporary injunction is not granted, and
 - (c) allay any doubts as to (b) by showing that the balance of convenience is in his favour.

These are the three pillars on which rests the foundation of any order of injunction, interlocutory or permanent. It is established that all the above three conditions and stages



are to be applied as separate, distinct and logical hurdles which the applicant is expected to surmount sequentially.”

17. In *Mumias Sugar Company Limited & 5 Others v Musa Ekaya*[Supra] where the Court further addressed itself on the general principles in interlocutory injunctions stated;

“The general principles to be considered in interlocutory injunctions as established in the *Giella vs Cassman Brown* have been modified to suit the uniqueness of defamation cases. Those principles, were settled in the case of *Cheserem vs Immediate Media Services* that;

“An interlocutory injunction is temporary and only subsists until the determination of the main suit. In defamation, the question of injunction is treated in a special way although the conditions applicable in granting an injunction as set out in the *Giella v Cassman Brown & Co Ltd (1973) EA 358* generally apply...In defamation cases, those principles apply together with special law relating to the grant of injunctions in defamation cases where the court’s jurisdiction to grant an injunction is exercised with the greatest caution so that an injunction is granted only in clearest possible cases. The court must be satisfied that the words complained of are libelous and that the words are so manifestly defamatory that any verdict to the contrary would be set aside as perverse.....The reason for so treating grant of injunction in defamation cases is that the action for defamation brings out conflict between private interests and public interest, more so in cases where the country’s constitution has provisions to protect fundamental rights and freedoms of the individual, including the protection of the freedom of expression.”

An interim injunction to prevent the publication of defamatory statement can only be granted in the clearest possible cases.”

18. The court of appeal defined a prima facie case in *Mrao Ltd v First American Bank of Kenya Ltd & 2 others* [2003] eKLR, and stated that:

“...in civil cases it is a case in which on the material presented to the Court a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter.” (per Bosire. J)

19. The basis of the libelous, defaming and horrendous video clips and images alleged to have been posted by or through the Respondents in TikTok Application under the handle *TikTok@elizaaXXX* indicated that the Applicant was married or in a romantic relationship with a female who was well-known to the Applicant, something which is against the dictates of the Catholic church and the Applicant’s faith and the vow to celibacy.
20. The Respondents have not disputed the posting and or publication of the alleged defamatory video clips and images in TikTok under the handle *TikTok@elizaaXXX*.
21. The continued circulation of the offending publication is a source of immense pain and anguish on the part of the Applicant which is occasioning him injury that cannot be atoned by damages.
22. I am persuaded that on the interim, the Appellant has established a prima facie case with a probability of success, and that damages may not be adequate compensation. The balance of convenience also tilts in favour of the Applicant.



23. In the end, I am satisfied that the Notice of Motion dated 28th June, 2024 is merited and it is hereby allowed in terms of prayer 3, 4 and 5 pending the hearing and determination of the main suit. The costs shall be in the cause.

DATED, SIGNED & DELIVERED VIRTUALLY AT MACHAKOS ON 7TH OCTOBER 2024

NOEL I. ADAGI

JUDGE

