



Brookhust International School Limited & another v Nduhiu (Civil Case E052 of 2025) [2025] KEHC 16078 (KLR) (Civ) (6 November 2025) (Ruling)

Neutral citation: [2025] KEHC 16078 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL
CIVIL CASE E052 OF 2025**

JN MULWA, J

NOVEMBER 6, 2025

BETWEEN

BROOKHUST INTERNATIONAL SCHOOL LIMITED 1ST PLAINTIFF

PROF RUTH WAMBUI WAWERU 2ND PLAINTIFF

AND

HELLEN NYAMBURA NDUHIU DEFENDANT

RULING

1. The Plaintiffs by their statement of claim dated 10/03/2025 sought against the Defendant orders of injunction restraining the Defendant from publishing, disseminating and/or sharing any false, misleading, defamatory, offensive or unlawful information, statements or material on any media or forum concerning of the Plaintiffs, staff members, agents or servants, including Cyberbullying or harassment by the Defendant.
They also sought compensation in terms of damages in their various sub-heads and costs and interest.
2. For better understanding of the dispute between the parties, it is claimed that the Defendant was an employee of the Plaintiffs in their international school of repute based on Christian principles, within the period 2018 and 2024 in its Lavington Branch Nairobi, but the employment was terminated on 13/12/2024, upon which the Defendant sued the plaintiff in the Employment and Labour Relations Court (ELRC) *vide* case No. E025 of 2025 which case is pending hearing and determination.
3. Simultaneously with the plaint, the Plaintiffs filed a Notice of Motion application dated 10/03/2025 premised upon Sections 22, 23, 27 & 45 of the [Computer misuse and Cybercrimes Act](#) Regulations, and Order 40 Rule 2 of the [Civil Procedure Rules](#). The motion is supported by an affidavit sworn on 10/03/2025 by the 2nd Plaintiff, Prof. Ruth Wambui Waweru alongside grounds stated at its face.



4. The motion is opposed by way of a Replying Affidavit sworn by the Defendant – Hellen Nyambura Nduhiu on 20/06/2025 as well as filing grounds of opposition dated 20/06/2025, with a supplementary affidavit by the Applicant dated 7/07/2025.
5. The Applicants case by their affidavit material is that on 6/03/2025 the Defendant engaged in cyber bullying and cyber harassment against the Plaintiffs by sending harassing and bullying messages to the 2nd Plaintiff via WhatsApp platform defamatory, false and malicious information as well as in her Facebook page under the name “Nduhiu Hellen – expo about #bookhurst international schools comingup” which message were malicious, threatening, false, misleading, unlawful and defamatory of the Plaintiffs.
6. It is further deposition that the said actions by the Defendant have caused them injury, loss and damage, are made to harass, intimidate, humiliate and embarrass the Plaintiffs regarding the pending case at the Employment and Labour Court by disclosing documents and information, witness statements which for no legitimate reasons.
7. It is therefore the Plaintiffs’ plea that if the Defendant is not restrained by an order of injunction, she shall continue to harass by cyberbullying and publication of false defamatory information of and concerning the Plaintiffs; to which the 2nd Plaintiff claims have caused her to suffer emotional distress, mental distress, has been inflicted by fear of violence from the Defendant and reputational injury.
8. As to the school (1st Plaintiff), the Applicants claim that it has suffered loss of reputation and trust from members of the public; hate and ridicule and continues to suffer unless the Defendant is restrained from further publication of the false and malicious information.
9. On her part, the Defendant opposes the application by her replying affidavit and grounds of opposition where she posits that the substratum of this suit and orders sought are similar to the ELRC case which is pending in the ELRC Court and that the said court possesses the requisite jurisdiction to grant orders sought in this case (reliefs) and therefore filing of the case here is judicial misuse of administrative resources justifying an order striking out the suit, for being frivolous and an abuse of court process.

Analysis and Determination

10. In addition, the Respondent in her rejoinder by way of a supplementary affidavit threatened to publish her side of what she states to be oppressive she has suffered under the hands of the Plaintiffs; and further that the Plaintiffs in ELRC case, orders of interim injunction were granted on 11/03/2025 and extended to 6/11/2025 and therefore their orders sought should not be granted.
11. The applicants rely on provisions of Order 40 CPR; and case law, more specifically on the celebrated case of *Giella V. Cassman Brown Company Ltd* [1973] EA 35, *Kamau V Karanja* [2022] KEEL 14425 (KLR; *Nguruman Ltd v. Jan Bonde Nielsen* [2014] eKLR and *Micah Cheserem v. Immediate Media Services & 4 others* [2000] eKLR among others.
12. The salient principles for grant of Interim Injunction Orders were established in the *Giella V. Cassman Brown (supra)* and reiterated in the above cases, wherein an applicant must satisfy the following grounds:-
 - a. That an applicant must show a prima facie case with probability of success,
 - b. That a party must show that it stands to suffer irreparably injury which would not be adequately compensated by an award of damages,
 - c. And if the court is in doubt, it will decide the application on a balance of convenience.



13. The above tests are applicable in an application for interlocutory injunctions in a defamation suit; but only under special circumstances that the Applicant must establish as held in the case of *Micah Cheserem v. Immediate Media (Supra)* wherein it was held that, “the jurisdiction to grant an injunction in defamation cases is exercised with the greatest caution so that an injunction is granted only in the clearest possible cases, that the defamation cases are special actions as far as grant of injunctions is concerned. This is because generally and basically actions or carries of defamation bring out a conflict between private interest and public interest; that the court must be satisfied that the words or matter complained of are libelous. It must be satisfied that the words are so manifestly defamatory that any verdict to the contrary would be set aside perverse”.

Prima Facie Case

14. The classic case of *Mrao Limited v. First American Bank of Kenya & Others* [2003]eKLR defined what a prima facie case is as one which on the material presented to the court or a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party.
15. Further the Court of Appeal in the *Nguruman Limited V. Jan Bonde Niezen (supra)* reiterated and amplified that:-

“We reiterate that in considering whether or not a prima facie case has been established, the court does not hold a mini trial and must not examine the merits of the case closely. All the court is to see that on the face of it the person applying for an injunction has a right, which has been or is threatened with violation. Positions of the parties are not to be proved in such a manner as to give a final decision in discharging a prima facie case. The appellant need not establish title; it is enough if he can show that he has a fair and bona fide question to raise as to the existence of the right which he alleges.”

16. A publication is considered to be defamatory of a person’s character or reputation if it conveys a meaning which is likely to either lower the person’s reputation in the eyes of ordinary reasonable members of the community and that which may lead those people to ridicule, avoid or shun or despise the person or injure that person’s reputation in business, trade or in their profession – see *Alnashir Visram v. Standard Limited* [2016] eKLR as well as that every person’s reputation and character ought to be protected from unlawful attacks on their reputation and honour as captured under Article 17 and 19 of the *International Covenant on Civil and Political Rights*.

17. Having set out the above underpinnings, have the Applicants established a prima facie case?

It is the Applicants submissions that the information on WhatsApp, Facebook and on other alleged platforms meets the criteria stated in the learned decisions.

In particular, it is noted that on 6/03/2025 that the Defendant admitted having published the complained of information, and further that in her own submissions states that after the law suit was filed, she published on her Facebook

“expo about #brookhust international schools coming up” stating that she was going to tell her side of the oppression she suffered at hand of the Applicants..... with hope that she would be vindicated by the ELRC which would investigate the circumstances behind her dismissal.

18. There having been a case pending determination in the ELRC, was the Defendant’s action merited, or was it actuated by malice, or could it be termed as fair comment and accurate report of the matters before the ELRC court? Upon the above interrogation, it is evident that the Applicants have met the first requirement as stated in *Giella v. Cassman Brown* that a prima facie case has been duly established.



Irreparable Loss?

19. Irreparable loss is one that cannot be compensated or atoned by an award of damages. The Applicants posited in their Complaint and supporting affidavit to the motion that sending the alleged false and defamatory information on Facebook and other forums was intended to intimidate, harass, humiliate and embarrass them, including the 1st Applicants' staff members and if not stopped by an order of injunction, they would be adversely affected as a school and to the 2nd Plaintiff in her personal capacity to instill fear, harm, injury and loss that at the end would negatively impact the school as the public would consider the published falsehoods as authentic.
20. The offensive messages have no doubt caused emotional distress to the Plaintiffs. In my view, the circumstances of the matter call for intervention on account of the special circumstances when the court must exercise its discretion to grant interlocutory injunctions as it is clearly a conflict between the 2nd Plaintiff as an individual and the 1st Plaintiff as a corporate body as held in the case of *Micah Cheserem* (supra) where it was held that an interlocutory injunctions in defamation cases should only be granted in the clearest of cases. It is the courts finding that indeed, this is one of such clear cases where the courts discretion should be exercised in favour of the Plaintiffs.

Balance of Convenience?

21. The Defendant has admitted having published the impugned messages in the courts opinion, purely to spite the Plaintiffs, as there was a case on similar dispute pending determination. So that when she published that it was to show or state her side of the story of suffering under the Plaintiffs yet she had already stated the same in the ELRC case, if cannot be interpreted otherwise then to say that it was actuated by malice and made to cause the Plaintiffs more harm and damage emotionally and in their profession..
22. The Plaintiffs seek that the Defendant be enjoined by a temporary order against publishing, disseminating and or sharing falsehoods or unlawful information on any media on forum concerning the Plaintiffs, their schools activities, students and parents' information, staff members, agents or servants. This is clearly deserved as by the Defendant post of 6/03/2025, by her Facebook page posted "Expo about #brookhurst international schools coming up" This is itself a threat to publish other defamatory or not so pleasant publications about the Plaintiffs.
23. In the *Nguruman* case (supra) the Court of Appeal held among others that a person applying for an injunction order has a right which has been threatened with violation. Indeed the post of 6/03/2025 is a clear case of an imminent violation of the plaintiffs' rights. In the special circumstances of the plaintiffs' case, and without attempting to venture into the merits or otherwise of the case, I find that the balance of convenience tilts in favour of the Plaintiffs.
24. In summation, this court is persuaded and convinced that the Plaintiffs/Applicants have met the thresholds for grant of interlocutory injunctive orders against the Defendant pending hearing and determination of the suit so as to protect their further reputational and professional damage by further publications by the Defendant as threatened.
25. In the end, the Plaintiffs/Applicants application dated 10/03/2025 is hereby granted interms of prayer 4 and 5 thereof. The Plaintiffs are granted costs of the application.

Orders accordingly.

DELIVERED DATED AND SIGNED AT NAIROBI THIS 6TH DAY OF NOVEMBER, 2025.



.....
JANET MULWA.
JUDGE

