



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: OKWENGU JA (IN CHAMBERS))

CIVIL APPLICATION NO. 386 OF 2019 (UR 335/2019)

BETWEEN

SQUISHY DRINKS LIMITED.....APPLICANT

AND

KEVIAN KENYA LIMITEDRESPONDENT

(An application arising from the Ruling of the High Court of Kenya at Milimani (Mary Kasango, J) delivered on 4th December 2019

in

HCCC No. 114 of 2019)

RULING

1. On 4th December, 2019, the High Court at Nairobi (**Kasango, J**) delivered a ruling in which it vacated orders of injunction that had been granted to the applicant. The High Court instead issued an order of injunction directed at the applicant restraining it from interfering with the respondent’s manufacturing, packaging or distribution of products under the trademark “**squishy**”.
2. The applicant who claims that the respondent is infringing on its trademark, is aggrieved by the orders made in the High Court. On the 10th December, 2019 the applicant filed a notice of appeal and on the 11th December, 2019, the applicant filed a notice of motion before this Court under **Rule 5(2)(b)** of the Court Rules, in which it seeks *inter alia*, interim orders to refrain the respondent from infringing on its trademark, pending the hearing of its intended appeal.
3. On 18th December, 2019 the applicant’s motion came before me for certification, but I declined to certify the motion as urgent. The parties appeared before me on 17th January, 2020 for inter parte hearing under **Rule 47** of the Court Rules on the issue of certification.
4. Upon hearing the parties’ advocates, it is evident that the appeal involves very contentious issues and it is appropriate that the applicant be given an opportunity to be heard. Moreover, the applicant appears to have demonstrated urgency by moving to this Court expeditiously.
5. In the circumstances, I certify the applicant’s motion dated 11th December, 2019 as urgent, and direct that a date be fixed for the hearing of the motion and the parties served with hearing notices.

Dated and delivered at Nairobi this 24th day of January 2020.

HANNAH OKWENGU

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JUDGE OF APPEAL

I certify that this is a

true copy of the original

DEPUTY REGISTRAR