

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA  
(CIVIL DIVISION)  
MISC. APPLICATION . NO. 790 OF 2019  
(ARISING FROM MISC. APPLICATION. NO. 789 OF 2019)  
(ARISING FROM CIVIL SUIT NO. 483 OF 2019)**

**GODFREY KIRUMIRA KALULE .....APPLICANT**

**VERSUS**

- 1. THE NEW VISION PRINTING & PUBLISHING COMPANY LIMITED**
- 2. DEOX TIBEINGANA**
- 3. THE EDITOR IN CHIEF THE NEW VISION PRINTING & PUBLISHING COMPANY LIMITED**
- 4. RED PEPPER**
- 5. THE EDITOR IN CHIEF OF RED PEPPER.....RESPONDENTS**

**BEFORE HW SARAH LANGA SIU – DEPUTY REGISTRAR**

**RULING**

This is an application brought by way of Notice of Motion under the provisions of section 98 of the Civil Procedure Act, Section 33 and 38 of the Judicature Act and order 52 r 1 and 3 of the Civil Procedure Rules seeking orders that:-

- a) An interim injunction doth issue against the respondents, their servants, agents or other persons acting under their authority to restrain them from further writing, printing, posting or causing to be published the same or any similar words against the plaintiff.
- b) Costs of the application

The application is supported by the affidavit of the applicant and based on the following grounds:-

1. That there exists a substantive application for temporary injunction MA NO. 789/2019

2. That the temporary injunction seeks to restrain the respondents from making and publishing false statements about the applicant.
3. That the respondents continue to infer, make and publish false statements about the applicant.
4. That the applicant is a public figure and is well regarded in society by his peers, friends and others.
5. That there is imminent danger of continuing to lose a lot of business opportunities as a result of the said statements.
6. That the main application will be rendered nugatory if this application is not granted.
7. That there is sufficient cause to warrant the grant of the orders sought.
8. It is just and equitable for the application to be granted to allow the main suit be determined on merit.

In reply the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents filed their affidavits in reply while the 4<sup>th</sup> and 5<sup>th</sup> did not file a reply.

The gist of the 1<sup>st</sup> and 3<sup>rd</sup> respondents reply is that they dutifully published matters concerning the land dispute without any malice. And that since 20<sup>th</sup> October 2019 they have not made any other publication against the applicant therefore imagination of further publication is out of speculation.

For the 2<sup>nd</sup> respondent, they also filed a supplementary affidavit in reply. The gist of both their replies is that the applicant has no name to protect as he has a tainted brand reputation in society.

The applicant filed an affidavit in rejoinder wherein he stated that the matters raised in the affidavits in reply related to the merit of the matter and therefore relevant to the main application not the instant one and didn't respond to them.

The applicant was represented by Ms. Annet Ayesiga while Mr. Kenneth Ntende represented the 1<sup>st</sup> and 3<sup>rd</sup> respondents. Mr. David Sempala represented the second respondent.

This court heard the submission by all counsel and examined all the pleadings on the record and the varied annexures.

The law on interim orders is settled and the same was well stated by counsel for the applicant as per the authorities of **Alcon International Ltd Vs New Vision Publishing Co. & Anor** and **Hung Sung Industries Vs Tadjin Hussein SCCA no. 19/2008**. That:-

1. There must be a main application for temporary injunction filed
2. Serious threat of execution before the hearing of the main application.

It is not in dispute that the applicant has filed a main application for temporary injunction MA NO.789/2019.

However, going by the submission of counsel for the applicant, she did not bring out the specifics or clarify on what she meant by the same or similar words as stated in the Notice of Motion. She failed to demonstrate the imminent threat to the applicant and what the applicant considers defamatory was not brought out.

Surely it is not the duty of this court to go on a fishing expedition and read into the mind of counsel for the applicant and establish what she may have wanted to state. Counsel even made reference to nonexistent paragraphs in the affidavit in support like 13 and 14.

As rightly submitted by counsel for the respondents, this court found no merit in the application and the same is dismissed.

Going by the pleadings, it's clear that the applicant and the 2<sup>nd</sup> respondent are not in good terms, hence in order not to escalate the acrimony between parties let each party bear its costs.

  
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**SARAH LANGA SIU**  
**DEPUTY REGISTRAR**  
**03.12.2019**