

THE UNITED REPUBLIC OF TANZANIA

IN THE HIGH COURT OF TANZANIA

AT DAR ES SALAAM

CIVIL CASE NO. 107 OF 1991

EBRAHIM SALUM TRADING IN THE FIRM NAME AND STYLE OF
TARFIF MINI SUPER MARKET PLAINTIFF
versus
B. P. TANZANIA LIMITED DEFENDANT

R U L I N G:

RUBAMA, J.

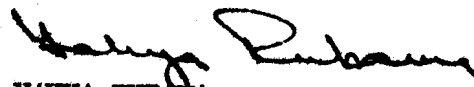
EBRAHIM SALUM trading in the firm name and style of TARFIF MINI SUPER MARKET is suing B. P. TANZANIA with whom he alleges he had on 1st September, 1988 entered into a Reseller Licence Agreement praying for the following reliefs:-

- (i) A declaratory order that there is no subsisting breach of the Reseller Licence Agreement to warrant termination of the entered into Reseller Licence Agreement,
- (ii) that the entered into Reseller Licence Agreement remain in force until there arises a breach,
- (iii) costs of the suit and
- (iv) such other and further relief as this court may deem just and proper.

Pending final determination of suit, the plaintiff has filed an application under Order 37 Rule 1 and 5 and section 95 of the Civil Procedure Code, 1966 praying for the following orders:

- (i) Temporary order of injunction against B.P. Tanzania Limited from summarily terminating the Reseller Licence Agreement and from interfering in any way the normal conduct of the business as per the entered Reseller Licence Agreement until determination of the suit between the parties,
- (ii) that costs of the application follow the incidence of the main suit and,
- (iii) such other relief or reliefs that the court may deem just and proper.

The application is supported by the affidavit of OMARI SALUM, the General Manager of B.P. University Petrol Station and Tahfif Mini Super Market and brother of EBRAHIM SALUM and opposed by a Counter Affidavit of BRIGHTON M. KAJUNA, Assistant Retail Manager of the respondent. Further to the affidavit of OMARI SALUM, the applicant in support of its application filed a Rejoinder to the Counter Affidavit by EBRAHIM SALUM which in turn is challenged by the respondent's Reply to the Rejoinder to the Counter Affidavit. This was sworn by BRIGHTON M. KAJUNA. Mr. Mwajasho, learned advocate for the applicant and Mr. Mkatto, learned advocate for the respondent elaborated on their positions. They were extensive, detailed and of extreme usefulness to the court. I do not, however, intend to go into them; they greatly go into the merits of the main suit whose determination would have to wait the finalization of the pleadings and naturally the hearing of the case. To go deep into the advanced conflicting submissions would by and large amount to prejudging the case. Yet I have to make a ruling on the application. In the light of the material before me, I find myself unable to grant the application by the applicant. It is accordingly dismissed with costs.


YAHYA RUBANA
JUDGE
24/4/1992

Order: In view of the urgency of the case, it is hereby fixed for hearing before KYANDO, J. on 12th May, 1992.


YAHYA RUBANA
JUDGE
24/4/1992

24/4/92 9 a.m.

Coram: Rubana, J.

Mr. Mwajasho for the applicant
For respondent Mr. Mkatto

Ruling delivered.


YAHYA RUBANA
JUDGE
24/4/1992

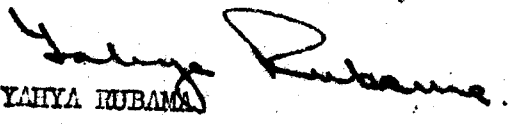
Mr. Mkatto:

I have not filed Written Statement of Defence. May I file it by 5/5/1992.

Court:

Defence to file Written Statement of Defence by 5/5/1992.

Reply if any by 11/5/1992. Hearing 12/5/1992 before Kyendo, Judge.


YAHYA RUBAMA

JUDGE

24/4/1992