

IN THE HIGH COURT OF MALAWI AT BLANTYRE  
PRINCIPAL REGISTRY

CIVIL CAUSE NO.127 OF 1986

BETWEEN:

PITCHFORD MARKETING LTD ..... PLAINTIFF

and

WILIMA ENTERPRISES LTD ..... DEFENDANT

and

A.M.I. (PRESS) LTD ..... APPLICANT

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Coram: MAKUTA, C.J.

Kaliwo, Counsel for the Appellant  
Banda, Counsel for the Respondent  
Kadyakale, Law Clerk

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R U L I N G

On 25th February, 1986 the Plaintiff obtained an Interim Injunction restraining the defendant and their agents from dealing with or disposing of defendant's goods, namely tyres. The Injunction was obtained ex-parte. On 14th April, 1986, the Plaintiff obtained a Judgment in default of acknowledgement of service.


The Applicant, AMI (Press) Ltd., are clearing, shipping and forwarding agents for and on behalf of the defendant. On 23rd April, 1986 the Applicant applied to court to have the Injunction dissolved. When hearing the application on 13th May, 1986 a preliminary issue was taken by Mr. Banda, Counsel for the Plaintiff, that the Applicant was a stranger to the proceedings and had, therefore, no locus standi in the matter. The preliminary issue was not decided upon because the parties had agreed that they wanted to hold discussions. Ruling on the preliminary issue was therefore adjourned to a date to be fixed. I now proceed to make the ruling.

Although the Applicant are strangers to the proceedings they were served with the Interim Injunction on 25th February, 1986 in their capacity as agents of the defendant. The Applicant did not, however, take any action until after

the judgment in default was obtained. Mr. Kaliwo for the Applicant submitted that a stranger can apply to have an Injunction dissolved. He cited Jones vs Roberts 59 English Reports 1104 in support of his submission. While this may be true, the application to dissolve the injunction must be made before judgment: see Halsbury's Laws of England Fourth Edition, Vol.24 at page 611 para 1111.

In the circumstances I am of the view that this application cannot proceed. I therefore rule accordingly.

MADE in Chambers this 15th day of August, 1986 at Blantyre.

  
F. L. MAKUTA  
CHIEF JUSTICE