

High Court Kenya at Nairobi

490/2013

Noni Gathoni Njenga & Jane Odewale v Catherine Masitsa & 2 Others

Court : Commercial Court
Case : Criminal
Date of Judgement : March 20, 2013
Plaintiff : Njenga & Odewale
Defendant : Masitsa & 2 Others
Concept : Copyright Infringement

Statue : Section 40 (5) of the Constitution and section 26 of the Copyright Act, No 21 of 2001, Laws of Kenya

Panel of Justices

Judge E.K. O Ogola

Case Background

In this matter, Njenga and Odewale applied for an order of temporary injunction restraining the Defendants from infringing in any way on the Plaintiffs Literary Copyrighted work 'Weddings with Noni Gathoni' and 'The Baileys Wedding Show with Noni Gathoni'. They have also asked the court to issue an order of temporary injunctions restraining the Defendants from reproducing in any material form of the original work or its translation or adaptation, the distribution to the public of work by way of sale, rental, lease, hire, loan importation or similar arrangement and the communication to the public and broadcasting of the whole work or a substantial part thereof, either in its original form or in any form recognisable derived from the original or otherwise causing such broadcasting of a television show that infringes on the Plaintiffs Literary Copyrighted work, pending hearing and determination of the main suit or further orders of the court.

Procedural History

The High Court of Kenya at Nairobi passed judgement on the case

Issue

Whether the Defendants have infringed on the Plaintiffs' Literary Copyrighted work 'Weddings with Nonny Gathoni and dubbed 'The Baileys Wedding show with Noni Gathoni'.

Rational

A preliminary injunction was granted against the Defendants who were held to have been unlawfully broadcasting copyrighted literary and artistic works vested in a television wedding show in breach of a contractual arrangement with the Applicants.

Keywords Infringement, literary and artistic works, preliminary injunction