

High Court of Kenya at Murang'a

HC Petition 7/2014

Cascade Company Limited v Kenya Association of Music Production (KAMP)-Performance Right Society of Kenya (PRISK) and 2 Others

Court	:	High Court
Case	:	Criminal
Date of Judgement	:	November 21, 2014
Plaintiff	:	Cascade Company Limited
Defendant	:	KAMP-PRISK and 2 Others
Concept	:	Copyright Licences and fees
Statue	:	Arts. 22, 27, 40, 43, 46 and 47 of the Kenya Constitution, Section 30 of the Copyright Act, No 21 of 2001, Laws of Kenya

Panel of Justices

Judge Ngaah Jairus and Judge H.P Waweru

Case Background

This is a case of Cascade Company Limited (plaintiff) sought several declarations and damages against the respondents on the basis that its constitutional rights have been violated. The applicant also filed a chamber of summons dated 7 June in which he sought for conservatory orders pending the hearing and determination of the main petition. The applicant has complained that its business has been interrupted by the respondent's officers who were demanding that the applicant has described as non-existent licences. This had led to the applicant's business losses.

Procedural History

The High Court of Kenya at Murang'a passed a judgement on the case.

Issue

Whether the petitioner has made out a case for conservatory orders.

Rational

The court held that the activities of a Collective Management Society and a Music Copyright Society did not contravene the country's Constitution. The court also considered the requirements for the grant of a conservatory order which is an interim order granted to preserve the status quo pending the hearing and determination of the main petition. Requirements for the grant of the order; Applicant must demonstrate that the order sought is in the public interest, is consistent with constitutional values, is justified on the merits and should be granted as a matter of priority to avoid the Applicant from suffering prejudice. The Applicant was held to have failed to justify the petition for the conservatory order and the application was dismissed.

Keywords Broadcasting, performance rights, economic rights, remuneration, Collective Management Society, Music Copyright Society, conservatory order