



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**CIVIL SUIT NO 327 OF 2004**

THOMAS N MAOSA ..... APPLICANT  
VERSUS  
KHARAMSHI MEGHJI HARIA ..... RESPONDENT

**RULING**

This is a Chamber Summons application to restrain the defendant “from evicting the plaintiff from premises known as Shop Number 2 at Revlon Plaza, 3rd Floor, along Kimathi Street/Tubman Road on Land Reference Number 209/2485 till the final determination of this suit and/or further orders of this court.”

It is supported by the Applicant’s affidavit sworn April 5, 2004 in which he depones that he is the defendant’s tenant in the suit premises, although he does not have a written lease. He says that he was locked out of the premises sometime before February 10, 2004.

If, by his own admission, he has already been evicted from the premises, he should be seeking a mandatory injunction, not a prohibitory injunction that he seeks. Even if this court were to grant an interlocutory injunction it would serve no useful purpose. In any event, he is not entitled to the order sought based on the information presented to this court. He says he is a “tenant” in the suit premises, but has provided no proof of tenancy. He says he has been paying rent, but has exhibited no receipts. He has not established a prima facie case with a probability of success, and has not demonstrated how and why damages would not be an adequate remedy (*See Giella vs Cassman Brown & Company (19 73) EA 358*)

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Accordingly, I dismiss this application with costs to the Defendant, and vacate any interim orders subsisting in favour of the Plaintiff.

Dated and delivered at Nairobi this 11th day of May, 2004.

**ALNASHIR VISRAM**  
**JUDGE**