



REPUBLIC OF KENYA

IN THE COURT OF APPEAL OF KENYA

AT NAIROBI

CIVIL MISC APPL 300 OF 95

NORMAN MUMOAPPLICANT

AND

KENYA POWER & LIGHTING COMPANY LIMITED.....RESPONDENT

RULING OF THE COURT

This is an application under rule 5(2)(b) of the Court of Appeal Rules for a mandatory injunction directing the Kenya Power & Lighting Company Limited (KPLC) to restore power supply to the premises occupied by the applicant on Plot L.R. No.88/1 Barsheba, Mombasa North. Mboghli J dismissed the applicant's application in the superior court. Our provisional perusal of the material documents in this case indicates that the applicant procured the supply of electricity to his premises irregularly by improperly enlisting the assistance of some of the employees of KPLC who had no authority to sign the relevant documents, and have since been dismissed from the service of KPLC.

On this evidence we cannot see that the applicant has an arguable appeal. This being our attitude, though only provisional, we do not have to consider the damage, if any, the applicant will suffer if the injunction can file a suit for damages if he can prove that there has been a breach of a valid contract to supply electricity to his premises. Such damages cannot be beyond the capacity of KPLC to pay. In the circumstances the application fails and is dismissed with costs.

Dated and delivered at Nairobi this 20th day of December, 1995.

R. O. KWACH

JUDGE OF APPEAL

R. S. C. OMOLO

JUDGE OF APPEAL

A. A. LAKHA

JUDGE OF APPEAL

I certify that this is a true copy of the original.

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