



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT GARISSA

JUDICIAL REVIEW NO. E002 OF 2021

REPUBLIC.....APPLICANT

VERSUS

DIRECTOR OF CRIMINAL INVESTIGATIONS,

REGIONAL CO-ORDINATOR GARISSA.....1ST RESPONDENT

THE REGIONAL COUNTY SURVEYOR GARISSA.....2ND RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....3RD RESPONDENT

THE INSPECTOR GENERAL OF POLICE.....4TH RESPONDENT

EXPARTE.....MOHAMED OMAR AHMED

AHMED G. GABOW

IBRAHIM MOHAMED ABDULLAHI

RULING

1. The *Ex parte* Applicants moved the court on the 15th of February 2021 seeking for leave to file judicial review orders in the nature of certiorari to remove into the court and quash the decision of 1st and 2nd respondents contained in a letter dated 3rd February 2021 to carry out re-surveying of the boundary of Wasib Farm L.R No. 32234 and secondly, leave to apply for an order of prohibition to prohibit and restrain the 1st and 2nd respondents from carrying out the intended survey exercise as suggested 3rd February 2021 or at all. The Exparte Applicants also sought pending hearing and determination of the substantive motion for the leave so granted do operate as a stay.

2. Prayers **b** & **c** above were granted, pending was the last prayer for stay.

3. The response by the respondents failed to touch on prayer **c** despite the court’s order that the said prayer be argued *inter partes*. The responses have addressed the issue of re-survey.

4. The purpose of a stay order is to preserve *status quo* pending hearing and determination of the issue in question.

5. In my considered opinion no harm will be suffered by either side should this court stay the implementation of the decision of the 1st and 2nd respondents to carry out the intended survey pending hearing and determination of the issues raised in this suit.

6. Consequently, a stay of the implementation of the proposed survey works contemplated in the letter of 3rd of February 2021 be and is hereby granted pending hearing and determination of the suit.

DATED, DELIVERED AND SIGNED AT GARISSA THIS 20TH DAY OF JANUARY, 2022.

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ALI-ARONI

JUDGE