



Mbarak t/a Tasna Investment Ltd & another v Inspector General of Police National Police Service & another; Mwanjira & 2 others (Interested Parties) (Criminal Miscellaneous Application E193 of 2022) [2022] KEHC 16437 (KLR) (24 November 2022) (Ruling)

Neutral citation: [2022] KEHC 16437 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL MISCELLANEOUS APPLICATION E193 OF 2022**

**A. ONG'INJO, J
NOVEMBER 24, 2022**

BETWEEN

TWALIB MBARAK T/A TASNA INVESTMENT LTD 1ST APPLICANT

ATHUMANI NGOVI OMARI 2ND APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTION (ODPP) 1ST RESPONDENT

**INSPECTOR GENERAL OF POLICE NATIONAL POLICE
SERVICE 2ND RESPONDENT**

AND

KHAMIS ATHMAN MWANJIRA INTERESTED PARTY

MARYAM JUMA BENZAI INTERESTED PARTY

SAUMU JUMAA HEMEDI INTERESTED PARTY

RULING

1. The Appellants herein that is Mbarak T/A Tasna Investment Ltd and Athumani Ngovi Omari had their application dated August 3, 2022 dismissed on August 15, 2022 for want of attendance and prosecution of the application.
2. The appellants were seeking orders of prohibition/restrain against the Respondent jointly and severally from harassing/intimidating/summoning/investigating and/or dealing or interfering with the applicant's herein jointly and/or severally by themselves, their agents, nominees, attorneys pending the hearing and determination of the instant application.



3. The applicants had also sought that an order of prohibition restraining against the Respondents do issue restraining them from harassing/intimidating/prosecuting and/or dealing or interfering with the applicants jointly and severally pending hearing and determination of Suit No 163 of 2021 and the suit property No Kwale/Tsunza/1164.
4. They had also prayed that the court orders that investigations by the County DCIO Kwale is malicious and in total violation of the *Constitution* as provided under Articles 159 (2) (c), 163 3(9) 2(d)(ii) and Article 259(i) of the Constitution of Kenya 2010.
5. The Court was asked to order that interested parties do deposit Kshs 5 Million in curt a security for costs. Directions were taken that the application as dated August 31, 2022 be canvased by way of written submissions within 30 days from October 24, 2022.
6. As at the time of writing this ruling, the Respondents have not responded to the application nor filed submissions.
7. The applicants have also not filed submissions. The application however stands unopposed and the same is allowed.
8. The application dated August 3, 2022 is reinstated. The Applicant to serve again for directions on December 19, 2022.

Dated, signed and delivered in Open Court/online through MS TEAMS,

this 24nd day of **November 2022**

HON. LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of: -

Ogwel- Court Assistant

Ms. Kambaga for state/Respondent

Mr. Kyalo Advocate for Applicant

No appearance for Applicant

HON. LADY JUSTICE A. ONG'INJO

JUDGE

