



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. E052 OF 2021

IN THE MATTER OF AN APPLICATION FOR LEAVE TO INSTITUTE

JUDICIAL REVIEW PROCEEDINGS FOR ORDERS OF CERTIORARI AND MANDAMUS

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

COMMISSIONER FOR COOPERATIVE

DEVELOPMENT.....RESPONDENT

AND

TRANSLINE SAVINGS AND CREDIT

COOPERATIVE SOCIETY LIMITED.....PROPOSED INTERESTED PARTY

EX PARTE APPLICANTS:

- 1. PAUL MANWA**
- 2. FRED NYACHAE**
- 3. MILTON ONGORO**
- 4. TRANSLINE GALAXY SACCO LIMITED**

RULING NO 2

1. On 23rd April 2021, this Court directed that the *ex parte* Applicant's Chamber Summons dated 22nd April 2021 be heard *inter partes* today. The *ex parte* Applicants have since filed submissions thereon dated 7th May 2021. In the intervening period, Transline Savings and Credit Cooperative Society Limited (hereinafter "the Proposed Interested Party"), filed an application by way of a Notice of Motion dated 21st May 2021 seeking owing orders that it be joined in this suit as an Interested party, and that its application be heard and determined first.

2. The said application is supported by an affidavit sworn on even date by Eric Moseki Kombo, the Proposed Interested Party's Chairman. The main ground for the application is that the *ex parte* Applicants fraudulently registered a society using the Proposed Interested Party's name without its consent. Therefore, that the Proposed Interested Party has an identifiable stake or legal interest in the proceedings as it is the original owner and first user of the name "TRANSLINE GALAXY", a matter that was concealed and led to the impugned cancellation of Transline Galaxy Sacco Limited by the Commissioner of Cooperative Development.

3. The Proposed Interested Party has provided evidence of its certificate of registration, and in light of the fact that the decision to cancel the registration of Transline Galaxy Sacco Limited is the subject matter of the suit herein, will be directly affected by the proceedings herein. It is therefore a necessary party in this suit within the meaning of Order 53 Rule 3 (2) and (4) of the Civil Procedure Rules.

4. In the circumstances, I hereby direct and order as follows:

- i. Transline Savings and Credit Cooperative Society Limited be and is hereby joined to this suit as an Interested Party.
- ii. The *ex parte* Applicants shall serve the Interested Party with the Chamber Summons dated 22nd April 2021, and the submissions thereon dated 7th May 2021 within seven (7) days of today's date.
- iii. Upon being served with the said pleadings, the Interested Party shall be required to file its response to the Chamber Summons dated 22nd April 2021 and submissions thereon within fourteen (14) days from the date of service.
- iv. The costs of the Interested Party's Notice of Motion dated 21st May 2021 shall be in the cause.
- v. A virtual hearing of the *ex parte* Applicants' Chamber Summons dated 22nd April 2021 shall be held on 7th July 2021 at 3 p.m., and the Deputy Registrar of the Judicial Review Division shall put this matter on the Division's causelist for a virtual hearing on that date.
- vi. The Deputy Registrar of the Judicial Review Division shall send a copy of this ruling to the *ex parte* Applicants and Interested Party by electronic mail by close of business on Thursday, 27th May 2021.
- vii. Parties shall be at liberty to apply.

5. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 24TH DAY OF MAY 2021

P. NYAMWEYA

JUDGE