



**Republic v Disciplinary Tribunal & 2 others; Gitonga (Exparte Applicant) (Environment and Land Judicial Review Case E012 of 2023) [2023] KEELC 19285 (KLR) (27 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 19285 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E012 OF 2023**

**LN MBUGUA, J  
JULY 27, 2023**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**DISCIPLINARY TRIBUNAL ..... RESPONDENT**

**AND**

**ADVOCATES COMPLAINTS COMMISSION ..... DEFENDANT**

**AND**

**WILSON MIRANGI WACUKA ..... RESPONDENT**

**AND**

**PETER MATHENGE GITONGA ..... EXPARTE APPLICANT**

**RULING**

1. This Judicial Review suit was filed by way of a Chamber Summons Application dated June 23, 2023 in which the Applicant seeks the following orders;
  1. Leave be and is hereby granted to the Applicant herein to apply for Judicial Review Orders, to writ an Order or Certiorari to bring into this court for the purpose of being quashed the 1<sup>st</sup> Respondents decision delivered on July 3, 2019 in Misc cause No 123 of 2017 convicting the Applicant of professional misconduct in the nature of failure to honour a professional undertaking.
  2. The grant of leave herein do operate as a stay of the decision of the 1<sup>st</sup> Respondent delivered on July 3, 2019 in Misc cause No 123 of 2017 convicting the Applicant of professional



misconduct in the nature of failure to honour a professional undertaking pending the hearing and determination of the substantive Judicial Review application.

3. The grant to leave herein do operate as a stay of further proceedings including but not limited to the mitigation and sentencing in Misc cause No 123 of 2017 scheduled on July 3, 2023 pending the hearing and determination of the substantive Judicial Review application.
4. Cost of this application.
2. On June 23, 2023, this court gave directions for the applicant to address the court on the question of jurisdiction. To this end, it was submitted that the decision of the Tribunal is in conflict with the decision of the court in ELC CASE NO 160 OF 2014. That the Exparte Applicant had filed a case at the High Court HCCC MISC No 430 OF 2023, but the Judge gave an order that the matter should be handled by the ELC.
3. In light of the foregoing submissions, this court will proceed to determine the Chamber Summons Application.
4. I have perused the material presented before this court. I discern that the decision sought to be quashed was given 4 years ago in July 2019, while the decision in ELC 160 of 2014 was given more than two years ago on June 22, 2021. That being the case, the filing of this case at this particular given time shall be a point of interest in the proposed proceedings. I therefore proceed to partially allow the application dated June 23, 2023 in the following terms;
  1. Leave is granted in terms of prayer no 2 in the application dated June 23, 2023 for the filing of the Judicial Review Notice of Motion.
  2. The Substantive Motion to be served alongside all the suit papers within 21 days from the date of delivery of this ruling. (By August 18, 2023).
  3. The Respondents are to file and serve their Responses by September 9, 2023.
  4. The case to be heard on September 19, 2023.
  5. The Applicant to serve the directions given herein upon the Respondents within 5 days failure to which the leave granted herein in prayer 2 shall lapse.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27<sup>TH</sup> DAY OF JULY, 2023 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

In the presence of:

Irungu for Exparte Applicant

Court Assistant: Eddel

