



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. E1113 OF 2020

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

RENT RESTRICTION TRIBUNAL AT NAIROB.....1<sup>ST</sup> RESPONDENT

CHAIRMAN, RENT RESTRICTION TRIBUNAL AT NAIROBI.....2<sup>ND</sup> RESPONDENT

AND

DR. MUTIA KASYOKA.....INTERESTED PARTY

EX PARTE:

1. STANLEY MAELO

2. NICHOLAS MASABA

RULING

**The Application**

1. The *ex parte* Applicants herein have filed an application by way of a Chamber Summons dated 26<sup>th</sup> September 2020, seeking the following orders:

**1. THAT** this application be certified as urgent and service be dispensed with in the first instance.

**2. THAT** leave be granted to the Petitioners/Applicants to apply for Judicial Review orders and for the orders of Certiorari, prohibition and mandamus against the decision of the Chairman Rent Restriction Tribunal-Nairobi, made on 5<sup>th</sup> August 2020.

**3. THAT** the grant of leave to commence Judicial Review process to act as a stay against the execution of the said decision by the Chairman Rent Restriction Tribunal at Nairobi made on the 5<sup>th</sup> August 2020.

**4. THAT** costs of this application be provided for.

2. The application is supported by the grounds on its face, and a supporting affidavit sworn by the 1<sup>st</sup> Applicant on 26<sup>th</sup> September 2020, wherein it is averred that the impugned decision of 5<sup>th</sup> August 2020 was made by the 2<sup>nd</sup> Respondent in the 1<sup>st</sup> Respondent’s Tribunal Case Number 1125 of 2020 in the following terms:

**1. “THAT** the application is hereby certified as urgent and heard *ex parte* in the first instance.

**2. THAT the Defendants/Respondents are hereby ordered to reconnect water and electricity supply to the suit premises forthwith.**

**3. THAT the Defendants/Respondents, their servants, employees and or agents are hereby restrained from disconnecting water and electricity, evicting, harassing the plaintiff/tenant and or in any other manner interfering with his tenancy pending the hearing of the application interpartes.**

**4. THAT the plaintiff/tenant is to pay the outstanding arrears in instalments together with accrued rent so as to have cleared within 90 days.**

**5. THAT the OCS Muthangari Police Station do ensure compliance of these orders.**

**6. THAT the Defendants/Respondents are to be served for interpartes hearing within 30 days.”**

3. It is evident that the *ex parte* Applicants are seeking orders in relation to the title, use and occupation of land in the said application. Any disputes and orders sought in relation to title to and occupation of land now fall within the exclusive jurisdiction of the Environment and Land Court, pursuant to Articles 162(2) (b) and 165(5) of the Constitution, and section 13 of the Environment and Land Court Act.

4. This Court therefore has no jurisdiction to hear and determine the Chamber Summons dated 26<sup>th</sup> September 2020.

#### **The Orders**

5. In the premises I direct and order that this suit be and is hereby transferred to the Environment and Land Court at Nairobi for further hearing and determination. The *ex parte* Applicants’ Chamber Summons dated 26<sup>th</sup> September 2020 shall accordingly be placed before the **Duty Judge** at the **Environment and Land Court at Nairobi** on **12<sup>th</sup> October 2020**, for directions.

6. The Deputy Registrar of this Court shall send a copy of this ruling by electronic mail to the *ex parte* Applicants, and to the Deputy Registrar of the Environment and Land Court at Nairobi, by close of business on 5<sup>th</sup> October 2020.

7. Orders accordingly.

**DATED AND SIGNED AT NAIROBI THIS 30<sup>TH</sup> DAY OF SEPTEMBER 2020**

**P. NYAMWEYA**

**JUDGE**