



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

JUDICIAL REVIEW MISC. APPLICATION NO. MISC E076 OF 2020

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

JONAH H KARIUKI T/A MORAN AUCTIONEERS.....1ST RESPONDENT

VERITY MANAGEMENT LTD.....2ND RESPONDENT

CHIEF MAGISTRATE 'S COURT MILIMANI COMMERCIAL LAW COURTS3RD RESPONDENT

EXPARTE APPLICANTS: SYMON THUO GACHAHI MUHIA

RULING

1. The *ex parte* Applicant herein has filed an application by way of a Chamber Summons dated 14th December 2020 seeking the following orders:

1. That this matter be certified urgent

2. That the leave be granted for the applicant to apply for:

a. An order of judicial review of certiorari to remove into this Court and quash as against the applicant herein the proceedings of the Chief Magistrate's Court in Misc Case Number E2971 of 2020 .

b. An order of judicial review of prohibition directed towards the respondent prohibiting them from illegally and unprocedurally attaching, levying distress or removing the *ex parte* Applicant's items from his offices pending the hearing and determination of the matter in the Business Premises Rent Tribunal.

c. An order for judicial Review of prohibition, prohibiting the 1st – 3rd Respondents from evicting, harassing, limiting or denying the *ex parte* applicant access to his offices located in Soin Arcade building pending the hearing and determination of this matter.

d. That the leave so granted to operate as a stay of the proceedings in E2971/2020, against the applicant herein, pending before the Chief Magistrate Milimani Commercial Court.

e. That the cost of this application be provided for.

2. The application is supported by a statutory statement and an affidavit sworn on 14th December 2020 by the *ex parte* Applicant.

3. It is evident that the *ex parte* Applicant is seeking orders in relation to the use and occupation of his business premises arising out of a rent dispute with his landlord. of land, and environmental impacts thereof in the said application. Any disputes and orders sought in relation to title, use and occupation of land, including between landlords and tenants now fall within the exclusive and supervisory 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. This Court therefore has no jurisdiction to hear and determine the *ex parte* Applicant's Chamber Summons dated 14th December 2020.

The Orders

4. In the premise 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 14th December 2020 shall accordingly be placed before the **Duty Judge** at the **Environment and Land Court at Nairobi** on **30th December 2020**, for directions.

5. The Deputy Registrar of this Court shall send a copy of this ruling by electronic mail to the *ex parte* Applicant, and to the Deputy Registrar of the Environment and Land Court at Nairobi, by close of business on 23rd December 2020.

6. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 21ST DAY OF DECEMBER 2020

P. NYAMWEYA

JUDGE