



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

JUDICIAL REVIEW NO. 151 OF 2015

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW ORDERS OF
CERTIORARI AND PROHIBITION**

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

CHIEF MAGISTRATE'S COURT NAIROBI.....RESPONDENT

EXPARTE

1. JEFF KOINANGE

2. TONY GACHOKA

AND

KWACHA GROUP OF COMPANIES.....1ST INTERESTED PARTY

JIMI WANGIGI.....2ND INTERESTED PARTY

SANI MBUI WANJIGI.....3RD INTERESTED PARTY

SANI SHOLLEI.....4TH INTERESTED PARTY

JEFF KOINANGE.....5TH INTERESTED PARTY

KENYA TELEVISION NETWORK.....6TH INTERESTED PARTY

STANDARD GROUP LIMITED.....7TH INTERESTED PARTY

TONY GACHOKA.....8TH INTERESTED PARTY

NATION MEDIA GROUP LIMITED.....9TH INTERESTED PARTY

RULING ON CLARIFICATION OF THE JUDGMENT DATED 27TH FEBRUARY, 2017

1. At paragraph 108 of the judgment of this court dated 27th February 2017, the court was very clear that: **“.....and I so declare and order those proceedings a nullity.”** This was with regard to the proceedings before the subordinate court per Mrs M. Chesang which were brought into this court for purposes of quashing.
2. The court at paragraph 110 of the said judgment was also clear that **“on the whole, the Resident Magistrate in conducting the contempt of court proceedings for alleged breach of a mandatory injunction acted without jurisdiction and further, that whole procedure adopted by her violated the applicant’s right to a fair trial under Article 50 of the Constitution”** and at paragraph 111 of the judgment, I declared the contempt of court proceedings conducted by Mrs M. Chesang Resident Magistrate a nullity and that any consequential orders thereto must be declared a nullity as they were conducted without jurisdiction and in total violation of the exparte applicant’s fundamental rights guaranteed by the Constitution.
3. That being the case, any fines or cash bail paid by the applicants in the contempt proceedings was illegally collected and must as a matter of course be refunded to the exparte applicants without any resistance or at all as the court cannot benefit from an illegal order that was made without jurisdiction.
4. Accordingly, the clarity I give is that the fines/cash bail paid by the two exparte applicants herein shall forthwith be refunded to the exparte applicants Jeff Koinange and Tony Gachoka, through their respective legal counsels on record.

Orders accordingly

Dated, signed and delivered at Nairobi this 26th day of April, 2017.

R.E. ABURILI

JUDGE