



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MIGORI

CIVIL MISC APPLICATION NO. 4 OF 2017

MAURICE ODHIAMBO WASONGA.....APPLICANT

VERSUS

1. GEOFFREY V. K. OKUMU (IP)

2. LEKAKENY MOSES (SP)

3. SIMON K. NGENY (IP)

4. OCS MIGORI POLICE /STATION

5. MIGORI CRIMINAL INVESTIGATING OFFICER...RESPONDENT

RULING

1. By a Notice of Motion dated 01/02/2017 and evenly filed, the Applicant prayed for the following orders: -

‘1. THAT this matter be certified as urgent so that the same be heard expeditiously.

2. THAT the Respondents herein be compelled by this Honourable Court to unconditionally and forthwith released the following Applicants properties to the Applicant herein;

(a) 4 pairs of New tyres size 195R15C.

(b) 2 Head Lamps TY027.

(c) Two pair of alarm systems (Car) 912/4223.

(d) 1 Plumber VIGO O/M.

(f) 2Mack Book pro CIMS929XDTYS ANS.CIMS91CIDTY3.

(g) 5 pieces of Islamic cloths.

(h) 2 Public address speaker with two stands 5SCORE.

(i) 1 bulb holder frame.

(j) One music mixers S/No. 51502266811 Model 5X2442FX.

(k) 1 Honda Generator.

(l) 1 empty HP Box S/No.CND62910KL HP250 95.

(m)1 Toyota Hilux KAW 113w Blue on colour.

(n)1 Aitel Modem IMEI 867010024935448.

3. THAT the cost of this Application be born by the Respondents herein.

2. The application was supported by the Affidavit of the Applicant sworn on 31/01/2017. That application was duly served on the Respondents and Miss Owenga, Senior Principal Prosecution Counsel from the Office of the Public Prosecutions Migori County appeared for the Respondents. The Respondents were given time to file their responses on several instances but in vain.

3. Upon concurrence of the Counsels, the parties were directed to file written submissions to the application. Whereas the Applicant filed his written submissions, the Respondents did not.

4. From the record, the Applicant contends that the 1st, 2nd and 3rd Respondents under the instructions of the 4th and 5th Respondents proceeded to the Applicant's home at Suna Nyabisawa Location on 28/01/2017 at about 01:30am and took away several items without giving the Applicant any notice or reasons thereof. During the exercise, the Respondents prepared an Inventory which was duly signed and a copy given to the Applicant. That inventory is marked as **Exhibit 'LMOW-1'** in the Applicant's Supporting Affidavit.

5. The Applicant avers that no one has ever lodged any complaint against any of the said items and that the said items are wasted at the Migori Police Station. Further, no charges have been preferred against him in respect to the items. The Applicant sees the conduct of the Respondents as an intrusion of his privacy. He prays for the orders sought.

6. As the application is not opposed and given that the Respondents were duly represented, this Court finds merit in the application. **Prayers 2 and 3 of the Notice of Motion dated and filed on 01/02/2017** are hereby allowed as prayed.

Orders accordingly.

DELIVERED, DATED and SIGNED at MIGORI this 29th day of June 2017.

A. C. MRIMA

JUDGE