



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KISUMU**

**JUDICIAL REVIEW APPLICATION NUMBER 007 OF 2017**

**IN THE MATTER OF AN APPLICATION BY MOSES ADAGALA FOR LEAVE TO APPLY  
FOR ORDERS OF JUDICIAL REVIEW IN THE NATURE OF CERTIORARI & MANDAMUS**

**AND**

**IN THE MATTER OF KENYA PREMIER LEAGUE LIMITED**

**AND**

**IN THE MATTER OF THE SPORTS ACT**

**BETWEEN**

**MOSES ADAGALA.....APPLICANT**

**VERSUS**

**IN THE MATTER OF THE INDEPENDENT DISCIPLINARIES**

**AND COMPLAINT COMMITTEE.....RESPONDENT**

**RULING**

By a chamber summons brought under Order 53 rules 1,2 & 4 of the Civil Procedure Rules, the applicant seeks among others orders leave to apply for an order of Judicial Review in the nature of a certiorari to quash the decision of the respondent delivered on 16th August 2017 in 2 cases involving Kenya Premier League v Muhoroni Youth FC and the applicant.

When the application came up for hearing on 20.9.17, Ms. Mitei, advocate for Football Kenya Federation (*hereinafter referred to as FKF*) informed the court that she had filed an application dated 11.9.17 seeking that FKF be enjoined to this suit as an interested party.

Mr. Odeny, advocate for the applicant opposed the application on the ground that Order 53 rule 3 of the Civil Procedure Rules on the ground that it is after leave has been granted that the substantive notice of motion is filed and served on all interested party. In his words, FKF was jumping the gun.

I have considered the rival submission by both counsels. I have also considered the provisions of Order 53 of the Civil Procedure Rules which provide as follows:-

***(4) The grant of leave under this rule to apply for an order of prohibition or an order of certiorari shall, if the judge so directs, operate as a stay of the proceedings in question until the determination of the application, or until the judge orders otherwise:***

***Provided that where the circumstances so require, the judge may direct that the application be served for hearing inter partes before grant of leave. Provided further that where the circumstances so require the judge may direct that the question of leave and whether grant of leave shall operate as stay may be heard and determined separately within seven days.*** (Emphasis mine)

My understanding of the emphasized part of the rule is that the question of leave and whether grant of leave shall operate as stay **may** be heard and determined separately within seven days.

FKF has indicated that it wished to be enjoined to this application at this stage before the issue of leave and whether leave should operate as a stay is considered. The applicant has not shown that it will suffer any prejudice if FKF is enjoined in this suit.

Consequently and in the interest of effectively and completely adjudicating upon all questions raised, the application dated 11th September 2017 is considered and FKF is hereby enjoined in this suit as an interested party.

**DATED AND DELIVERED THIS 21st DAY OF September 2017**

**T. W. CHERERE**

**JUDGE**

**Read in open court in the presence of-**

Court Assistant - Felix

Applicant - Mr Odeny

Respondent - N/A

Proposed interested Party -N/A