



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 404 OF 2013

BETWEEN

ANDREW MWANGI KIMANIPETITIONER

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS.....1ST RESPONDENT

THE CHIEF MAGISTRATE, MILIMANI

CHIEF MAGISTRATE'S CRIMINAL COURT.....2ND RESPONDENT

THE HONOURABLE ATTORNEY GENERAL3RD RESPONDENT

RULING

1. The petitioner comes before this court to restrain the respondents from enforcing witness summons issued in *Criminal Case No. 1464 of 2009* calling upon him to testify in court on 7th August 2013. He is apprehensive that his rights may be violated by enforcement of the said witness summons as he is a stranger to the proceedings and has no material facts or evidence to tender before the said court.
2. I decline to issue the interim relief requested as to do so would interfere with a trial whose proceedings are not before this court. I am not even familiar with the reason for the issuance of summons as proceedings have not been annexed to the application.
3. The trial court, qua court, must address itself to any objection that may be raised by the petitioner before that court or any grounds including the violation of his rights and the court will be obliged to address such objection.
4. In the circumstances, I decline the orders sought. The petition shall be served and is fixed for directions on 3rd September 2013.

DELIVERED and DATED at NAIROBI this 7th August 2013

D.S. MAJANJA

JUDGE

Mr Kimondo instructed by Kimani and Michuki Advocates for the petitioner *ex-parte*