



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
MISCELLANEOUS APPLICATION 152 OF 2011
IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW
AND
IN THE MATTER OF THE KENYA CIVIL AVIATION AUTHORITY
BETWEEN
REPUBLICAPPLICANT
VERSUS
THE DIRECTOR GENERAL,
KENYA CIVIL AVIATION AUTHORITYRESPONDENT
AND
EX-PARTE
PATRICK WAWERU MWANGIAPPLICANT

RULING

When this matter came up for mention on 15th February, 2012 Mr. Simiyu for the respondent informed the court that although this matter was filed in court on 15th July, 2011 the issue was debated in Parliament on 21st December, 2011 at 2.30 p.m. as confirmed by the National Assembly Official Report. He told the court that his client was not comfortable being subjected to both the legal process (the Court) and the political process (the Legislature). He therefore asked the court to give directions on the way forward. Mr. Mwaniki told the court that his client did not know how the matter ended up in Parliament. He told the court that his client had submitted himself to this court and he wanted the matter dealt with by this court.

I have looked at the National Assembly proceedings for Wednesday, 21st December, 2011 at 2.30 p.m.

and it is clear that the issue before this court came up for debate in Parliament on that day. The ex-parte applicant has however told this court that he believes that the solution of his problem will be found in court and that is why he has filed this matter.

Article 159(2)(c) of the Constitution provides that the court should promote alternative dispute resolution. I will therefore assume that the debate in Parliament was an attempt at alternative dispute resolution. It appears that no resolution was reached. Had the parties asked the court to temporarily suspend this case to await the resolution of Parliament, I would have done so. The applicant is however eager to have this matter heard and determined. The respondent cannot suffer any prejudice because once the court makes a decision the same will be binding on the parties herein. It is important that matters that have been brought to the attention of the court are heard and determined without unnecessary delay. As such, I direct that this matter be given a date for highlighting of submissions.

Dated and signed at Nairobi this 14th day of March, 2012.

W. K. KORIR
JUDGE