



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Petition 210 & 219 of 2012

CHRIS KABIRO..... PETITIONER/APPLICANT

AND

THE DIRECTOR,CRIMINAL INVESTIGATIONS DEPARTMENT 1ST RESPONDENT

THE COMMISSIONER OF POLICE 2ND RESPONDENT

THE ADMINISTRATION POLICE COMMANDANT 3RD RESPONDENT

AND

KIHINGO VILLAGE (WARIDI GARDENS) LIMITED.....INTERESTED PARTY

CONSOLIDATED WITH 219 OF 2012

MATHU & GICHURI ASSOCIATES LIMITED..... 1ST PETITIONER

GEOMAX CONSULTING ENGINEERS LIMITED2ND PETITIONER

DIMENSIONS ARCHITECTS AND INTERIOR DESIGNERS LTD.....3RD PETITIONER

KANJUMBA CONSULTANTS LIMITED4TH PETITIONER

MASTER POWER SYSTEMS LIMITED5TH PETITIONER

AND

**THE DIRECTOR,CRIMINAL INVESTIGATIONS DEPARTMENT.....1ST
RESPONDENT**

THE COMMISSIONER OF POLICE 2ND RESPONDENT

DIRECTOR OF PUBLIC PROSECUTION 3RD RESPONDENT

THE HON. ATTORNEY GENERAL 4TH RESPONDENT

AND

**KIHINGO VILLAGE(WARIDI GARDENS) LIMITED.....INTERESTED
PARTY**

RULING

1. This matter was filed in May 2012 and certified as urgent and it is on the basis of the urgency that I granted conservatory orders stopping the criminal process and giving directions for the hearing of the petition.
2. I gave directions for the filing of affidavits on 22nd May 2012, 23rd July 2012 and 17th September 2012. At all times, the officer of the Director of Public Prosecutions was present and it is on the basis of the fact that they needed time to respond that granted them indulged to file their depositions.
3. These two consolidated matters have now been fixed for hearing today, 27th October 2010. On 10th October 2012, the Office of the DPP filed the Replying Affidavit which it now seeks to be admitted out of time, thereby occasioning an adjournment of the hearing as the petitioner will be entitled to respond.
4. The reason given for the failure to file the replying affidavit out of time is that the Office of the DPP had not received the Police file until October. Counsel states that he wrote to the police on 9th July 2012. He also admits he did not follow up with a reminder.
5. The Court's only resource is time and **Article 159** of the Constitution imposes on this court the obligation to dispense justice without delay. This obligation is not on the court alone but is imposed on all institutions, persons and state organs since every person must support the Constitution. On my part I find the reason given for the delay flimsy and lacking in merit and I would ordinarily decline to accept the deposition late in time. I must also state that court directions are not bouquets of flowers to be handed out with a smile; they are court orders which counsel appearing before the court must ensure are followed and complied with.
6. I reluctantly allow the affidavit out of time and consider it duly filed. The petitioner and any of the interested parties may respond to it within 14 days.

DATED and DELIVERED at NAIROBI this 24th October 2012

D.S. MAJANJA
JUDGE