

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Judicial Review 253 of 2011

NATIONAL WATER CONSERVATION &

PIPELINE CORPORATIONAPPLICANT

VERSUS

THE WATER APPEALS BOARDRESPONDENT

AND

DANIEL MWANGI NG'ANG'A1ST INTERESTED PARTY

ATHI WATER SERVICES BOARD2ND INTERESTED PARTY

RULING

Through an application filed on 24th April, 2012 the applicant herein seeks to amend the substantive notice of motion so that the Republic becomes the applicant and it (National Water Conservation and Pipeline Corporation) becomes the ex-parte applicant. The applicant also seeks to indicate that the application is brought under sections 8 and 9 of the Law Reform Act among other provisions of the law. The main ground in support of the application is that the same will not cause any prejudice to the respondent and interested parties. The 1st interested party opposed the application by way of a replying affidavit sworn on 26th June, 2012. It is the 1st interested party's argument that the applicant is reacting to his submissions and its application has come late in the day.

I have carefully considered the arguments for and against the application. The ex-parte applicant seeks to make its application proper before the eyes of the court. The main notice of motion has not been heard. The Constitution has placed an onus on the courts to do justice without undue regard to technicalities (Article 159(2)(d) of the Constitution). Looking at the application placed before the court, it is clear that no prejudice will be occasioned to the 1st interested party if this application is allowed. The application is therefore allowed in terms of prayers 1 and 2 so that the annexed amended notice of motion is deemed to have been duly amended, filed and served.

This application would not have been necessary had the ex-parte applicant been more vigilant. As such I award costs of kshs.10, 000/= to the 1st interested party to be paid by the ex-parte applicant before the next mention date.

Dated and signed at Nairobi this 17th day of October , 2012

W K KORIR

JUDGE