

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

Judicial Review 74 of 2011

**IN THE MATTER OF THE APPLICATION BY BENARD GADE MIMOH FOR LEAVE TO
APPLY FOR ORDER OF CERTIORARI AND MANDAMUS**

AND

IN THE MATTER OF THE ADMINSTRATIVE POLICE ACT CHAPTER 85

AND

**THE DISTRICT COMMISSIONER KIRINYAGA EAST AND THE COMMANDANT OF
THE ADMINSTRATION OF POLICE**

BENARD GADE MIMOH.....APPLICANT

R U L I N G

This is prayer No. 3 of the Chamber Summons dated 19th October 2011. The Applicant was on 19th October 2011 granted leave to file Judicial Review challenging the decisions of the Respondents. He now wants the leave to operate as stay. The Respondents were served with notice for inter partes hearing on the issue of stay but they did not turn up. In his submissions counsel for the Applicant asked the court to have the Applicant reinstated and paid his salary.

I have looked at the Chamber Summons at prayer four (4). The order of Mandamus to be prayed for in the Judicial Review is for the reinstatement of the Applicant and payment of the accrued salary from the date of dismissal.

Allowing leave to operate will indeed be dealing with and determining the Review before I is filed, served and heard.

For those reasons I decline to grant prayer 3 of the Chamber Summons dated 19/10/2011. Costs in the cause.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT EMBU THIS 8TH DAY OF
NOVEMBER 2011.**

**H. I. ONG'UDI
JUDGE**