



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (MILIMANI LAW COURTS)**

**MISCELLANEOUS CIVIL CASE 364 OF 2009**

**IN THE MATTER OF AN APPLICATION BY JOHN NJENGA KAMAU AND PAUL NJENGA KAMAU FOR LEAVE TO APPLY FOR JUDICIAL REVIEW ORDERS OF CERTIORARI AND PROHIBITION**

**AND**

**IN THE MATTER OF THE PRINCIPAL AND BOARD OF GOVERNORS ST. JOSEPH'S HIGH SCHOOL, GITHUNGURI**

**PAUL KAMAU NJENGA ..... 1<sup>ST</sup> APPLICANT**

**JOHN NJENGA KAMAU..... 2<sup>ND</sup> APPLICANT**

**AND**

**THE PRINCIPAL ST. JOSEPH'S HIGH SCHOOL,**

**GITHUNGURI..... 1<sup>ST</sup> RESPONDENT**

**THE CHAIRMAN BOARD OF GOVERNORS**

**ST. JOSEPH'S HIGH SCHOOL, GITHUNGURI..... 2<sup>ND</sup> RESPONDENT**

**RULING**

Having considered the Chamber Summons dated 12<sup>th</sup> June, 2009, documents filed and submissions of counsel for the applicants, I am of the view that the applicants have demonstrated an arguable case. I will grant leave to file judicial review proceedings.

I have been requested to grant a stay of the decision of the 1<sup>st</sup> respondent. With the facts placed before me at this threshold stage, I am not particularly sure what effect a stay will have, as counsel for the applicants has disclosed that the 1<sup>st</sup> applicant has been suspended a number of times. I will not grant a stay.

Consequently, I order as follows:-

1. *The requirement of service of prior notice on the Registrar is dispensed with.*
2. *Leave is granted to the applicants to file judicial review proceedings for certiorari and prohibition. The Notice of Motion will be filed within 10 days from today.*
3. *I decline to grant stay.*
4. *The applicants counsel will fix the matter for mention urgently after service of the Notice of Motion for directions.*
5. *Costs will follow the decision in the Notice of Motion to be filed.*

Dated and delivered at Nairobi this 16<sup>th</sup> day of July, 2009.

**George Dulu**

**Judge.**