



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NYERI

Civil Application 63 of 2009

JOSEPH WACHIRA NJUGUNA.....APPLICANT

VERSUS

- 1. HEAD: CENTRAL HIGHLANDS CONSERVANCY.....1ST RESPONDENT**
- 2. THE HON. ATTORNEY GENERAL.....2ND RESPONDENT**

RULING

Pursuant to the provisions of *Order LIII rule 1 and 2* of the Civil Procedure Rules, **JOSEPH WACHIRA NJUGUNA**, the applicant herein, sought for leave to take out judicial review proceedings in the nature of mandamus to compel the Head of Central Highland Conservancy to release motor vehicle registration number KAM 239T to the Applicant. The summons is accompanied by a statement of facts and verified by two affidavits sworn by the Applicant.

I have considered the oral submissions of Miss Kabethi, learned advocate for the Applicant and the material placed before me. I am satisfied that the Applicant has shown he has a *prima facie* arguable case hence he is entitled to the orders sought. Consequently I grant the Applicant leave of 21 days to file the substantive application as prayed in prayer I.

This court has been urged to direct the order of leave to operate as a stay of further criminal proceedings. I have examined the proceedings annexed to the further affidavit and it is obvious that the criminal charge preferred against the Applicant and or his agents and servants were terminated under *Section 87A* of the Criminal Procedure Code. It is therefore clear that there are no criminal charges which are pending against the Applicant hence the order for stay if given will serve no useful purpose. The same is denied.

Costs of the summons to be costs in the cause.

Dated and delivered this 18th day of December 2009.

J. K. SERGON
JUDGE

In open Court in the presence of Kingori holding brief for Kabethi.