



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
MISC. CIV. APPLI. NO. 219 OF 2008

PEKATEWA INVESTMETNS LTD;.....APPLICANT

AND

TRANSPORT LICENSING BOARD.....1ST RESPONDENT

THE COMMISSIONER OF POLICE.....2ND RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....3RD RESPONDENT

THE MINISTER MINISTRY OF LOCAL GOVERNMENT.....4TH RESPONDENT

THE MINISTER, MINISTRY OF TRANSPORT.....5TH RESPONDENT

THE REGISTRAR OF MOTOR VEHICLES.....6TH RESPONDENT

CITY COUNCIL OF NAIROBI.....7TH RESPONDENT

AND

THE KENYA BUS SERVCIES LTD.....1ST AFFECTED/INTERESTED PARTY

THE CITY HOPPA LTD2ND AFFECTED/INTERESTED PARTY

THE DOUBLE M AUTO TECH LTD.....1ST AFFECTED/INTERESTED PARTY

RULING

Before me is a Chamber Summons dated 24th April 2008 filed by Murage & Mwangi Advocates on behalf of the ex-parte applicant PEKATEWA INVESTMENTS LTD. The application was filed under certificate of urgency. It seeks for leave to file Judicial Review proceedings against several defendants, for orders of certiorari, mandamus, and prohibition. It also seeks for orders that the leave so granted do operate as a stay of further enforcement of Legal Notice Number 37 of 2008.

The Chamber Summons was field with the statutory STATEMENT and VERIFYING AFFIDAVIT. The notice to the Registrar was field on 23.4.2008, one day before filing the application as required by law.

Counsel, for the applicant, Mr. Mungai, submitted in support of the application. Counsel submitted that the Legal Notice in question, that is Legal Notice No. 37 of 2008 was repugnant to the provisions of the parent Act, which was the traffic Act (Cap. 403). Counsel requested me to grant the orders sought.

I have considered the application, documents filed and submissions of counsel for the applicants. I am of the view that the applicants have a sufficient interest in the matter. They are said to be owners of public passenger transport vehicles in Nairobi where the Legal Notice applies. The applicants have also demonstrated that they have a prima facie arguable case. I will therefore grant them leave to file Judicial Review proceedings.

There is a request that I grant stay orders. I will not do so at this ex-parte application stage. The balance of convenience in my view, is not in favour of the applicant. I decline to grant stay orders.

Consequently, and for the above reasons, I order as follows:-

1. I certify the Chamber Summons dated 24th April 2008 as urgent.
2. I grant leave to the applicants to file Judicial Review proceedings for certiorari, mandamus and prohibition as requested. The main motion will be filed within 21 days from today.
3. I decline to grant stay orders.
4. Costs in the cause.

Dated, and delivered on 2nd May 2008 at Nairobi.

George Dulu

Judge