



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Misc. Civ. Suit 389 of 2007**

**AHMED BACHANI ZAHINA AHMED t/a**

**HERTZ DRIVING SCHOOL ... APPLICANTS**

**V E R S U S**

**THE PERMANENT SECRETARY OFFICE OF THE VICE PRESIDENT &  
MINISTRY OF HOME AFFAIRS..... RESPONDENT**

**R U L I N G**

Before me is a Chamber Summons dated 3<sup>rd</sup> March, 2008 brought under Section 5 of the Judicature Act, filed by M/s **ISEME KAMAU & MAEMA** advocates on behalf of the applicants **AHMED BACHANI**, and **ZAHINA AHMED BACHANI t/a HERTZ DRIVING SCHOOL**. The respondent is named as **THE PERMANENT SECRETARY OFFICE OF THE VICE PRESIDENT** and **MINISTRY OF HOME AFFAIRS**. The substantive orders sought in the application are that-

*Ø The applicant do have leave of this honourable court to apply for an order that Ms Nancy Kirui the Permanent Secretary Office of the Vice President and Ministry of Home Affairs be committed to civil jail for contempt of court.*

*Ø Costs of this application be borne by the respondent in any event.*

There are several grounds on the face of the Chamber Summons. The application is also supported by the affidavit of **AHMED BACHANI**, one of the applicants, sworn on 8<sup>th</sup> March, 2008.

Basically the complaint of the applicants is that the said Permanent Secretary has failed and/neglected to satisfy a court award of Kshs.2,684,196/24 with interest at court rates (12% pa) arising from PMCC No. 7909 of 2006, even after being served on 24/10/2007 with an order of mandamus made by court on 12/10/2007.

Though the ex-parte Chamber Summons was served, the respondent did not appear either in person or by Counsel. The respondent also did not file any response to the application. The application was therefore unopposed. Counsel for the applicant, Mr. Kamau, who appeared at the hearing, made submissions before me. He cited several court case authorities to support the application.

Considering the facts before me and applying the decision in the case of **Andalo & Another -Vs- James Green Russel Ltd. [1990] KLR 5**, I find merits in the application and will grant the leave sought.

I therefore allow the application and order as follows:-

- 1. That leave be and is hereby granted to the applicant to apply for an order that Ms. Nancy Kirui or any person for the time being holding the position of Permanent Secretary Office of Vice President & Ministry of Home Affairs be committed to civil jail for contempt of court.***
- 2. The main motion will be filed within 21 days from today. Costs will abide the results of the main motion.***

It is so ordered.

Dated and delivered at Nairobi this 16<sup>th</sup> day of June, 2008.

GEORGE DULU

JUDGE.

**In the presence of-**

Mr. Kamau for the applicants- Mr. Allan Gichuhi holding brief.

Mwangi Court Clerk.