



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

Misc Appli. JR 602 of 2008

**WILLIAM KIPLIMO KOMEN..... EX-PARTE
APPLICANT**

-V E R S U S-

THE HONOURABLE MUSALIA MUDAVADI

**THE MINISTER FOR LOCAL GOVERNMENT.....
RESPONDENT**

R U L I N G

This is a Chamber Summons dated 3rd October, 2008 filed by M/s Arusei & Company advocates on behalf of the ex-parte applicant **WILLIAM KIPLIMO KOMEN**. The respondent is named as **HON. MUSALIA MUDAVADI THE MINISTER FOR LOCAL GOVERNMENT**. The orders sought in the application are that-

1. ***This application be certified urgent and be placed before duty judge for hearing and determination forthwith.***
2. ***Leave be granted to the applicant to apply for an order of certiorari to this court for the purpose of being quashed the decision of the Minister for Local Government contained in legal Gazette Notice No. 7070 of 5th August, 2005 revoking the nomination of the applicant herein as a councilor to the County Council of Baringo.***
3. ***The leave granted herein do operate as a stay of the implementation of the decision contained in the Kenya Gazette Notice No. 7070 of 5th August, 2008 in regard to the applicant herein.***
4. ***The costs of this application be provided for.***

Grounds of the application are on the face of the Chamber Summons application. The application was filed with a **STATEMENT** and a **VERIFYING AFFIDAVIT**.

When the application came up for hearing, the counsel for the applicant, Mr. Arusei, submitted that his client had been gazetted as a nominated councilor in February, 2008. However, on 5th August, 2008, the Gazette Notice highlighted in this application, denominated one **WILLIAM KIPRUTO KOMEN** as a councilor. This name was different from the name of the applicant. However, the Clerk of the County Council of Baringo had interpreted the degazettement to mean that the applicant was the person who was denominated. Counsel submitted that it was because of the above complaints that this application for

leave was brought. Counsel contended also that the applicant would suffer prejudice, if stay orders were not granted.

I have considered the application, documents filed as well as the submissions of counsel for the applicant. In my view, the applicant has demonstrated a prima facie arguable case. He has also demonstrated a sufficient interest in the subject matter. I will grant the leave sought.

The applicant has asked me to grant stay orders. I find no basis for granting stay orders at this preliminary stage. I am not convinced that the applicant has demonstrated that he will suffer substantial loss. In addition, one of the officials complained of, that is the Clerk to Council, has not yet been joined as a party in the application herein. In granting leave, I will order that the Clerk to Council be served with the main motion.

Consequently, I order as follows-

1. **I certify the application as urgent.**
2. ***Leave be and is hereby granted to the applicant to file Judicial Review proceedings for certiorari as prayed. The main motion will be filed within 21 days, from today and also served on the Clerk to Council of the local authority in default the leave herein will automatically lapse.***
3. ***I decline to grant stay orders.***
4. ***Costs will follow the decision in the main motion***

Dated and delivered at Nairobi this 22nd day of October, 2008.

George Dulu

Judge.

In the presence of-

Mr. Arusei for applicant