



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (NAIROBI LAW COURTS)

Misc Appli. 560 of 2008

ABDI AHMED ABDULLE..... APPLICANT

V E R S U S

THE MINISTER FOR LOCAL GOVERNMENT..... 1<sup>ST</sup> RESPONDENT

THE DIRECTOR, DEPARTMENT OF URBAN PLANNING .....2<sup>ND</sup> RESPONDENT

R U L I N G

Before me is a Chamber Summons dated 11<sup>th</sup> September, 2008 filed by M/s Mburu Mbugua & Company advocates for the ex-parte applicant named as ABDI AHMED ABDULLE. The respondents are named as MINISTER FOR LOCAL GOVERNMENT (*1<sup>st</sup> respondent*), and **DIRECTOR, DEPARTMENT OF URBAN PLANNING (*2<sup>nd</sup> respondent*)**. In the application leave is sought to file Judicial Review proceedings for prohibition and mandamus with respect to motor vehicle KAU 934 C allegedly wrongfully held by the respondents. The said vehicle is said to belong to the applicant. It is also sought that leave, if granted, do operate as a stay to prohibit the respondents from releasing the motor vehicle before the determination of these proceedings.

When the application first came up before me, I ordered that the same be served for inter-partes hearing. The respondents however, after service, neither entered appearance nor filed any response to the application. The respondents did not also attend court during the hearing of the application.

At the hearing of the application, Mr. Mbugua submitted in support of the application. Counsel submitted that the applicant was the owner of the subject motor vehicle, and that there was no contractual arrangement existing between the applicant and the Ministry of Local Government. Counsel also contended that, if the subject vehicle was not released, then it might be lost.

I have considered the application and submissions of counsel for the applicant. I am of the view that the applicant has demonstrated a sufficient interest in the subject matter, as well as a prima facie arguable case. I will grant leave to file Judicial Review proceedings.

The applicant has also asked for stay orders, which are described as prohibition of the respondents from releasing the vehicle till determination of these proceedings. Though the applicant has not alleged that the vehicle is likely to be released to anybody, I am of the view that, since on the face of it, the applicant appears to be the registered owner of the vehicle, it is preferable if the vehicle is preserved till hearing and determination of this matter. I will therefore grant stay orders, in terms which will come out in the orders hereunder.

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

- 1. Leave be and is hereby granted to the applicant to file Judicial Review proceedings for prohibition and mandamus. The main motion to be filed and served within 15 days from today, otherwise the leave granted will automatically lapse.***
- 2. The leave herein granted will operate as a stay, which means the respondents will not release the motor vehicle KAU 934C to any other person until the determination of the main motion to be***

***filed, provided that the main motion is filed and served within 15 days from today, otherwise the stay herein granted will automatically lapse.***

**3.        *The costs will follow the determination of the main motion.***

Dated and delivered at Nairobi this 17<sup>th</sup> October, 2008.

GEORGE DULU

JUDGE.

No appearance for the parties.