



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

**Misc Civil Appli 721 of 2007**

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW**

**AND**

**IN THE MATTER OF TRADE UNIONS ACT CAP 233 LAWS OF KENYA**

**AND**

**IN THE MATTER OF LAW REFORM ACT CAP 26 LAWS OF KENYA**

**AND**

**IN THE MATTER OF NATIONAL UNION OF WATER AND SEWERAGE EMPLOYEES**

**REPUBLIC.....APPLICANT**

**VERSUS**

**THE REGISTRAR OF TRADE UNIONS.....RESPONDENT**

**Ex-Parte**

**ELIJAH OTIENO AWACHA.....APPLICANT**

**NATIONAL UNION OF WATER AND SEWERAGE EMPLOYEES.....INTERESTED PARTY**

**JUDGMENT**

The application before me is dated 13<sup>th</sup> July 2007 and seeks judicial review orders of certiorari, prohibition and mandamus.

I have considered the affidavits filed by all the parties including written submissions and oral submissions by Counsel.

It is common ground that after the hearing was finalised on 22<sup>nd</sup> February 2008 the Court posed to Counsel, a question concerning the current status of the register at the Registrar of Trade Unions and it was revealed to the Court that some of the Respondents were not the current officials. Counsel requested

time to consider their positions. After this several mentions were fixed and a hearing a date was finally fixed for 29<sup>th</sup> October, 2008 and neither the Applicant nor the Respondent Counsel appeared. Only the Interested Party's Counsel appeared.

In view of the well known maxim that a court of law never acts in vain, it is clear to the Court that the application has been overtaken by events. I cannot give a hanging decision that is not based on the factual position on the ground. In the result the application is dismissed and in the circumstances I decline to award any costs.

DATED and delivered at Nairobi this 5<sup>th</sup> day of December, 2008.

**J. G. NYAMU**

**JUDGE**