

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

MISC CIV APPLI 10 OF 2003

GRACE ESHIPWAKA APPLICANT

V E R S U S

THE ATTORNEY GENERAL

On behalf of BUTERE L.D.T. RESPONDENT

A N D

MICHAEL OKUSIMBA NYENDEINTERESTED PARTY

R U L I N G

Michael Okusimba Nyende, the interested party, filed an application on 8-6-06 seeking dismissal of the Notice of Motion dated 3-2-2003 which was filed under Rule 3 of Order LIII seeking orders for judicial review to wit certiorari. The application has not been prosecuted for more than 4 ½ years but it did come up for hearing on 10-2-1004 when it could not be reached, and on 27-11-2006.

The Chamber Summons does not conform with the Rules of the Civil Procedure Rules and for that reason I strike it out. It does jolt into action the exparte applicant, Grace Eshipwaka, who has been in a slumber to prosecute the Notice of Motion. Although I strike it out, I express concern over the inordinate delay in the prosecution of the Notice of Motion. I direct that the Notice of Motion be fixed for hearing on priority early next year

Delivered, dated and signed at Kakamega this 8th day of November, 2007

G. B. M. KARIUKI

J U D G E