

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA
CIVIL SUIT NO. 104 OF 2006

REHAN RIAZ MALIK.....APPLICANT

VERSUS

THE IMMIGRATION DEPARTMENT.....RESPONDENT

RULING

The Applicant, Rehan Riaz Malik, is a Pakistan National. He says inspite of having a valid visa due to expire on 10th March 2007 the Respondent has since March 2005 been harassing and threatening him with deportation. He therefore seeks leave of this court to apply for the judicial review order of prohibition to prohibit the Respondent from deporting him. He also seeks an order that the leave if granted should operate as a stay of the Respondent's intended act of deportation.

The Applicant says he came to Kenya in March 2001 and he was issued with Entry Permit No. 816399. When it expired on 1st March 2003 he got it extended to 1st March 2005. On 11th March 2005 he went to the Respondent's offices in Nairobi and after paying Sh. 120,000/= he got his Entry Permit extended for a further period of two years to 10th March 2007. His passport was accordingly endorsed. Two days later he was amazed when told by Immigration Officers that he had forged the extension of his Entry Pass. He was thereafter charged in Mombasa CMCr. C. No. 944 of 2005 charged with possessing and using a passport with a forged endorsement, possessing and using a forged Entry Permit, being unlawfully present in Kenya and unlawfully engaging in business. He pleaded guilty to all those charges and was fined a total of Sh. 20,000/=.

The Applicant says he acted in good faith. The Immigration Officers wish to deport him back to his country to cover up their acts of forgery. He should therefore be granted an order prohibiting them from doing that to enable him follow up the matter.

Leave to apply for any judicial review order is not granted on course. The applicant seeking leave has to establish a case for the grant of leave. The Applicant in this case has not established any such case. The particulars to three of the five charges with which he was charged in the said case and to which he pleaded guilty state that he "knowingly" used a passport and Entry Permit which had forged entry permit extension endorsements. Those are facts which establish a case not for granting leave but for dismissing this application which I hereby do.

DATED and delivered this 6th day of February 2006.

D. K. MARAGA

JUDGE