



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII

CIVIL MISC. APPL. NO.189 OF 2004

REPUBLIC APPLICANT

VERSUS

1. THE CHAIRMAN ADVOCATES DISCIPLINARY)

COMMITTEE

).. RESPONDENTS

2. THE SECRETARY LAW SOCIETY OF KENYA)

AND

JAFFERSON M. S. NYAGESOA EXPARTE

RULING

The applicant's prays for leave to apply for orders of certiorari against the decision of the Chairman Advocates

complaints Committee made on 10th September 2004. He also prays that leave, if granted do operate as a stay of execution of the orders of the disciplinary committee made on 10th September 2004. He also prays that leave,

if granted do operate as a stay of execution of the orders of the disciplinary committee pending the hearing and

determination of this application.

I have carefully considered the application and I hereby grant prayer one of the application. Leave is hereby

granted to the applicant to apply for orders of certiorari. The application should be filed with 21 day from today's date.

The 2nd prayer was that leave do operate as stay. I have carefully gone through the documents annexed to the

affidavit and the submissions by counsel for the applicant. I am not persuaded to order that the leave I

have granted do

operate as stay. Applicant is an advocate of High Court of Kenya and it is clear there was numerous correspondences

between him and the Respondent.

True he may suffer if he is not allowed to practice but I do feel that there is need to fully hear the intended

motion before staying or not staying the orders of the committee.

Further prayer 2 as framed in this application is not capable of being given.
It reads;

“THAT the grant of leave herein do operate as a stay of execution of
the orders of the Chairman Advocates disciplinary committee pending
the hearing and determination of this application.” (emphasis mine).

This Application is for leave. It was heard on 18/10/04 and ruling reserved for 21st October. Once this ruling is

delivered the application will be fully determined. What will remain is to find out if the applicant will make his

application for certiorari or not. The prayer does not seek issuance of order of stay until the hearing and determination

of the intended application for certiorari.

From the above therefore I decline to order that leave granted do operate as stay. I however direct that if and

when applicant files his application and serve then the same be heard on priority basis.

Dated this 21st October 2004

KABURU BAUNI
JUDGE
21/10/04

Mr. Minda H/B for Mr. Marwa for Applicant.

KABURU BAUNI
JUDGE