

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISC. APPLICATION NO. 1347 OF 1999

DAVIDWARGANJOKIGWA.....APPLICANT

VERSUS

THE REGISTRAR OF MOTOR VEHICLES.....RESPONDENT

RULING

This application by way of notice of motion seeks an order of mandamus to compel the Registrar of Motor Vehicles to register transfer of motor vehicle registration number KAC 049D Toyota Land Cruiser in the name of the applicant **DAVID WAIGANJO KIGWE**. This application is based on the following grounds inter alia that:-

- (a) That the registrar of motor vehicles has refused and or failed and or neglected to register transfer of motor vehicle registration number KAC 049D Toyota Land Cruiser (hereinafter referred to as “the said motor vehicle”) in the name of the applicant.
- (b) That the registrar has failed to register the said vehicle without any valid reason despite the fact that the applicant has paid all the custom duty VAT and all taxes and has submitted all the necessary documents.
- (c) The registrar’s refusal to act is oppressive, illegal and amounts to failure to perform a legal duty hence the need for an order of this court compelling him to perform his lawful duties.

The application is also supported by verifying affidavit. Having perused the application and the annexures herein, it is clear that the issue herein is not registration of an imported vehicle in which case the registration is effected after the applicant has paid the required taxes thus import duty, VAT and Excise. The exercise herein involves the registration of transfer in which case the applicant is required to certify the provisions of the Traffic Act in respect of transfer and registration of motor vehicles hence change of ownership.

There is nothing in this application to prove that the applicant has complied with the provisions of the Traffic Act and for that reason this application fails, and the same is dismissed.

**J.L.A. OSIEMO
JUDGE
29.2.2000**