



Gikaru v The National Transport and Safety Authority (NTSA) & 3 others (Miscellaneous Civil Application E154 of 2025) [2025] KEHC 8368 (KLR) (Judicial Review) (16 June 2025) (Ruling)

Neutral citation: [2025] KEHC 8368 (KLR)

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

MISCELLANEOUS CIVIL APPLICATION E154 OF 2025

RE ABURILI, J

JUNE 16, 2025

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO
APPLY FOR JUDICIAL REVIEW ORDERS OF MANDAMUS**

AND

IN THE MATTER OF THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT

AND

AND IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTION ACT

AND

BETWEEN

PAUL NJUNG'E GIKARU APPLICANT

AND

**THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(NTSA) 1ST RESPONDENT**

**INSPECTOR GENERAL OF POLICE THROUGH THE DCI
EMBAKASI 2ND RESPONDENT**

THE ATTORNEY GENERAL 3RD RESPONDENT

DIRECTOR OF PUBLIC PROSECUTIONS 4TH RESPONDENT



RULING

1. Before this Court is a chamber summons dated 11th June, 2025 brought under Order 53 Rule 1 of the Civil Procedure Rules, Sections 8 and 9 of the Law Reform Act, and relevant provisions of the Constitution cited in the heading, seeking leave to apply for judicial review orders of mandamus against the 1st and 2nd Respondents.
2. The ex parte Applicant seeks leave to apply for mandamus to compel the National Transport and Safety Authority (NTSA) to issue a new registration number for his motor vehicle, Toyota Fielder previously registered as KCL 498P(Chassis number NZE141-9183118 and Engine number 1NZ-D844789) in the name of the applicant herein; and to compel the Inspector General of Police through the DCI Embakasi to release the said vehicle, which has been in police custody since the year 2020. The applicant also seeks for costs of the application.
3. The facts, as disclosed in the statement of facts and verifying affidavit sworn by the applicant Paul Njung'e Gikaru on June, 2025, are straightforward and largely uncontested. The Applicant was registered as the owner of a motor vehicle Toyota Fielder KCL 498P(Chassis number NZE141-9183118 and Engine number 1NZ-D844789)which was allocated a registration number by the National Transport and Safety Authority- NTSA.
4. in 2020, it was discovered that another vehicle bore an identical registration number, also issued by NTSA. The vehicle as registered in the applicant's name was subsequently impounded by the DCI on the suspicion that it may have been obtained fraudulently or was being used in connection with criminal activity and used as collateral to obtain credit from lending institutions.
5. The applicant claims that he bought the vehicle from Timothy Muiga. There were proceedings before the criminal division of this Court for release of the vehicle but the court declined on account of pending investigations into the alleged criminality. The case was HCMISCR APP E080 of 2023 which was dismissed on 18th November, 2023 by Muteti J.
6. However, after prolonged investigation by the Directorate of Criminal Investigations and related agencies, it was established that the duplication of registration involved some erasure of the particulars from the engine and chassis of the vehicle held by the applicant.
7. There are intricate facts disclosed in the ruling by Muteti J in the criminal application. Nonetheless, no criminal charges have been brought against him to date. Despite this, the vehicle remains in police custody and the NTSA has not taken steps to correct the anomaly by issuing the Applicant with a new registration number or the DCI seeking to have the said motor vehicle forfeited to the state.
8. The legal question now is whether the Applicant has demonstrated an arguable case that justifies the grant of leave to bring judicial review proceedings in the nature of mandamus.
9. It is well settled that the threshold for leave under Order 53 is not high. The Applicant need only demonstrate a prima facie case, or arguable grounds for judicial review, which deserve consideration on the merits.
10. As was held in Republic v County Council of Kwale & Another ex parte Kondo & 57 Others [1998] eKLR, leave is not granted as a matter of course, but neither should it be denied where an applicant presents a reasonable case.



11. Similarly, leave is a mechanism for screening out frivolous claims, but where an arguable case is shown, the Court should allow the matter to proceed to substantive hearing.
12. In the present case, the impounding of the vehicle has persisted for over four years, notwithstanding those investigations have not charged the Applicant or any other suspect of any wrongdoing. The continued detention of the vehicle appears punitive and lacking any legal justification. It offends the principles of fair administrative action under Article 47 of *the Constitution*, and undermines the Applicant's alleged proprietary rights protected under Article 40 of *the Constitution*.
13. Additionally, it is not in dispute that the duplication of the registration number was occasioned by the 1st Respondent, who has failed to rectify it despite having the legal mandate under the *Traffic Act* and the NTSA Act to correct registration anomalies if any and to maintain a credible register of motor vehicles.
14. The remedy of mandamus is available to compel public bodies to perform statutory duties which they have failed or refused to perform. In this case, the NTSA bears a statutory obligation to maintain accurate registration records and to rectify errors.
15. The Inspector General of Police through the DCI equally has no basis in law to continue holding private property where there is no ongoing criminal prosecution or investigation.
16. I am persuaded that the Applicant has demonstrated a prima facie case deserving of further judicial inquiry. This is not to say that the case is merited but that it is suitable for further judicial inquiry.
17. Accordingly, I make the following orders:
 - a. Leave is hereby granted to the ex parte Applicant to apply for judicial review orders of mandamus:
 - i. to compel the National Transport and Safety Authority to issue a new registration number for the Applicant's motor vehicle Toyota Fielder previously registered as KCL 498P (Chassis number NZE141-9183118 and Engine number 1NZ-D844789); and
 - ii. to compel the Inspector General of Police through the DCI Embakasi to release the said motor vehicle Toyota Fielder previously registered as KCL 498P(Chassis number NZE141-9183118 and Engine number 1NZ-D844789) to the Applicant.
 - b. The substantive motion shall be filed within twenty-one (21) days from the date of this ruling and in a fresh Judicial Review file, this being a miscellaneous file in which leave to apply was sought.
 - c. I make no orders as to costs
18. This file is closed
19. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 16TH DAY OF JUNE, 2025.

R.E. ABURILI

JUDGE

