



Republic v Inspector of General of Police & 3 others; Maalim Adan Kassim (Exparte Applicant) (Judicial Review Miscellaneous Application E027 of 2024) [2024] KEHC 16678 (KLR) (9 December 2024) (Ruling)

Neutral citation: [2024] KEHC 16678 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E027 OF 2024
DO CHEPKWONY, J
DECEMBER 9, 2024**

BETWEEN

REPUBLIC APPLICANT

AND

INSPECTOR OF GENERAL OF POLICE 1ST RESPONDENT

NATIONAL POLICE SERVICE 2ND RESPONDENT

DIRECTORATE OF CRIMINAL INVESTIGATION 3RD RESPONDENT

THE HONOURABLE ATTORNEY GENERAL 4TH RESPONDENT

AND

MAALIM ADAN KASSIM EXPARTE APPLICANT

RULING

1. The Exparte Applicant obtained leave of this court and filed the Substantive Notice of Motion application dated 6th November, 2024 seeking various orders to stop his arrest or investigations in respect of Title Numbers 36/VII/585 (Nairobi Block 49/1467), 36/VII/584 (Nairobi Block 49/1466) 36/VII/106 (Nairobi Block 49/158) 36/VII/105 (Nairobi Block 49/157).
2. When the matter came up for mention on 27th November, 2024, the Applicant’s Counsel sought the court’s directions on the disposal of the Application. Mr Gacharia, counsel for the state indicated that they had filed Grounds of Opposition to the application. He also indicated that the Attorney General had also filed Further Grounds of Opposition dated 22nd November, 2024 on behalf of the Respondents on the basis that this court lacks geographical jurisdiction to hear and determine the matter since the cause of action arose in Nairobi. more particularly in Eastleigh and yet the suit has been filed in this court which is within Kiambu County. He further stated that there was another matter



being *JR NO. E026 OF 2024* which Hon. Justice Mshila had referred to Milimani High Court Judicial Review Division for hearing and determination.

3. The Counsel for the Applicant opposed the Respondents application and stated that this court has jurisdiction to determine the Judicial Review as filed. He further stated that the Applicant resides in Kiambu and the 2nd Respondent, who is the DCI have their offices at Kiambu. He further indicated that the suit *JR NO. E026 OF 2024* has since been withdrawn.
4. In rejoinder, Mr Gacharia stated that the suit property is in Eastleigh and the case is not looking at the parties but land fraud for which the Applicant seeks to stop investigations into and subsequent arrest over the same. He further stated that the investigations were initially being done at DCI, Kiambu and the same were transferred to DCI, Starehe Pangani in Nairobi. He thus sought Directions of this court.
5. The court has considered the oral arguments made by the counsel for the parties in the matter and finds that it is common ground that the subject matter of the case as per the Notice of Motion application and the orders sought revolve around land issues. It is also common ground from their title numbers being 36/VII/585 (Nairobi Block 49/1467), 36/VII/584 (Nairobi Block 49/1466) 36/VII/106 (Nairobi Block 49/158) 36/VII/105 (Nairobi Block 49/157) that the said properties are pieces of land based in Eastleigh, Nairobi. The court has also considered the sentiments of the prosecution's Counsel that investigations in the matter have since been transferred to the DCI, Starehe in Pangani.
6. In view of the aforementioned factors, the court finds merit in the oral arguments of the Respondents that indeed it lacks territorial jurisdiction over the matter given the fact that the title numbers being Title Numbers 36/VII/585 (Nairobi Block 49/1467), 36/VII/584 (Nairobi Block 49/1466) 36/VII/106 (Nairobi Block 49/158) 36/VII/105 (Nairobi Block 49/157) clearly show that the said land parcels are all based in Nairobi. It is therefore in the interest of justice that the case be transferred to Nairobi Milimani High Court Judicial Review Division for expedient disposal thereof.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 9TH DAY OF DECEMBER, 2024.

D. O. CHEPKWONY

JUDGE

In the presence of:

Mr. Ongeru counsel for the Ex-parte Applicant

M/S Gathenya counsel for Respondents

Court Assistant - Martin

