



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. E016 OF 2021

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

DIRECTOR OF CRIMINAL INVESTIGATIONS...1ST RESPONDENT

THE INSPECTOR GENERAL OF

THE NATIONAL POLICE SERVICE.....2ND RESPONDENT

THE ATTORNEY GENERAL.....3RD RESPONDENT

OSURI NICHOLAS.....4TH RESPONDENT

EX PARTE APPLICANT:

PETER DAVID LEPARAKWO

RULING

The Application

1. The *ex parte* Applicant herein has filed an application by way of a Chamber Summons dated 4th February 2021, seeking the following orders:

1. THAT this matter be certified urgent and be heard *ex parte* in the first instance
2. THAT leave be granted to seek a declaration that the conduct of the Respondents has been illegal/irrational/procedurally improper and a breach of the *ex parte* Applicant's legitimate expectations to Administrative action that is expeditious/efficient/reasonable/procedurally fair.
3. THAT leave be granted to seek an Order of Mandamus against the Respondents to compel them to return the *ex parte* Applicant's original title document and deed plan to land parcel LR. No. 24968/2 I.R. - 152577 forthwith.
4. THAT any other orders that meet the ends of justice do issue.
5. THAT the costs of this application be borne by the Respondent.

2. The application is supported by a statement dated 4th February 2021 and an affidavit sworn on the same date by the *ex parte* Applicant.

3. It is evident that the *ex parte* Applicant is seeking orders in relation to the title to land in the said application. Upon perusal of the pleadings, I also note that the Applicant is seeking the orders herein so as to expedite the hearing of proceedings in **Nairobi. ELC Case No 152 of 2018 - Cirtex Kenya Limited vs Peter David Leparakwo** as consolidated with **Nairobi ELC Case No. 691 of 2011 - National Hospital Insurance Fund Board of Management vs Crownline Freighters Ltd, Kaskazi Traders Ltd and the Hon. Attorney General** and in which the *ex parte* Applicant is a party, and which are dealing with the same subject matter as that of this application.

4. This application is therefore in abuse of the process of Court. In addition, any disputes and orders sought in relation to title, use and occupation of land, and relating to the environment now fall within the exclusive jurisdiction of the Environment and Land Court, pursuant to Articles 162(2) (b) and 165(5) of the Constitution, and section 13 of the Environment and Land Court Act. This Court therefore has no jurisdiction to hear and determine the Chamber Summons dated 4th February 2021.

The Orders

5. In the premise I direct and order that this suit be and is hereby transferred to the Environment and Land Court at Nairobi for further hearing and determination. The *ex parte* Applicant's Chamber Summons dated 4th February 2021 shall accordingly be placed before the **Duty Judge** at the **Environment and Land Court at Nairobi** on **2nd March 2021**, for directions.

6. The Deputy Registrar of this Court shall send a copy of this ruling by electronic mail to the *ex parte* Applicant, and to the Deputy Registrar of the Environment and Land Court at Nairobi, by close of business on 12th February 2021.

7. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 5TH DAY OF FEBRUARY 2021

P. NYAMWEYA

JUDGE